

By: Shapiro

S.B. No. 8

A BILL TO BE ENTITLED

AN ACT

relating to public education and public school finance matters;  
imposing criminal penalties.

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

ARTICLE 1. PUBLIC SCHOOL FINANCE

PART A. EDUCATION FUNDING FOR THE 2005-2006 SCHOOL YEAR

SECTION 1A.01. Subchapter E, Chapter 42, Education Code, is amended by adding Sections 42.2518, 42.2519, and 42.2520 to read as follows:

Sec. 42.2518. ADDITIONAL STATE AID OR CREDIT FOR DISTRICTS THAT REDUCE PROPERTY TAX RATES. (a) A school district that adopts a tax for the maintenance and operations of the district for the 2005 tax year that does not exceed the lesser of the district's rollback tax rate under Section 26.08, Tax Code, or the rate that is 25 cents less than the rate adopted by the district for maintenance and operations for the 2004 tax year, is entitled to receive for the 2005-2006 school year additional state aid in the sum of:

(1) the amount equal to the product of \$2,000 multiplied by the number of classroom teachers, full-time librarians, full-time counselors certified under Subchapter B, Chapter 21, and full-time school nurses employed by the district and entitled to a minimum salary under Section 21.402; and

(2) the amount necessary, as determined by the commissioner, to ensure that the district's total amount of state

1 and local revenue per student in average daily attendance for  
2 maintenance and operations, other than the amount to which the  
3 district is entitled under Subdivision (1), is not less than the  
4 total amount of state and local revenue per student in average daily  
5 attendance the district would have received during the 2005-2006  
6 school year, under the law in effect January 1, 2005, using the  
7 greater of the district's adopted maintenance and operations tax  
8 rate for the 2004 tax year, the district's adopted maintenance and  
9 operations tax rate for the 2005 tax year, or the maximum rate under  
10 Section 42.253(e) for which the district could receive state aid  
11 for the 2005-2006 school year, but not to exceed the rate of \$1.50  
12 for each \$100 valuation of taxable property.

13 (b) A school district that is required to take action under  
14 Chapter 41 to reduce its wealth per student to the equalized wealth  
15 level that adopts a tax rate that complies with the limitation  
16 described by Subsection (a) is entitled to an adjustment against  
17 the total amount of attendance credits required to be purchased  
18 under Subchapter D, Chapter 41, or the total number of nonresident  
19 students required to be educated under Subchapter E, Chapter 41, as  
20 determined by the commissioner, in the amount equal to the sum of  
21 the amounts described by Subsections (a)(1) and (a)(2).

22 (c) This subsection applies to a district with a wealth per  
23 student, as defined by Section 41.001, greater than the product of  
24 the dollar amount guaranteed level of state and local funds per  
25 weighted student per cent of tax effort, as provided by Section  
26 42.302, multiplied by 10,000, but less than the equalized wealth  
27 level under Section 41.002. A district to which this subsection

1 applies that adopts a tax rate that complies with the limitation  
2 described by Subsection (a) is entitled to state aid in the amount  
3 equal to the sum of the amounts described by Subsections (a)(1) and  
4 (a)(2).

5 (d) The commissioner may adjust the tax rate used for  
6 purposes of this section to account for special circumstances, as  
7 determined by the commissioner. A determination by the  
8 commissioner under this section is final and may not be appealed.

9 (e) This section expires September 1, 2006.

10 Sec. 42.2519. ADJUSTMENT FOR DISTRICTS THAT FAIL TO REDUCE  
11 PROPERTY TAX RATES. (a) Notwithstanding Section 42.253 or any  
12 other provision of this chapter, the commissioner shall reduce the  
13 amount to which a district is entitled under this chapter or Chapter  
14 41 by 15 percent if the district adopts and assesses a tax for the  
15 maintenance and operations of the district for the 2005 tax year  
16 that exceeds the limitation described by Section 42.2518(a).

17 (b) A determination by the commissioner under this section  
18 is final and may not be appealed.

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

20 Sec. 42.2520. STAFF COMPENSATION. (a) For the 2005-2006  
21 school year, a school district shall provide district employees,  
22 other than administrators, compensation in the form of annual  
23 salaries, incentives, or other compensation determined appropriate  
24 by the district that results in a total compensation increase for  
25 all district employees in an amount equal to the product of \$500 and  
26 the total number of classroom teachers, full-time librarians,  
27 full-time counselors certified under Subchapter B, Chapter 21, and

1 full-time school nurses employed by the district.

2 (b) A payment under this section is in addition to  
3 compensation a school district would otherwise pay an employee  
4 during the school year.

5 (c) The commissioner may adopt rules to implement this  
6 section.

7 SECTION 1A.02. This part takes effect on the 91st day after  
8 the last day of the legislative session.

9 PART B. EDUCATION FUNDING

10 SECTION 1B.01. Subtitle I, Title 2, Education Code, is  
11 amended by adding Chapter 42 to read as follows:

12 CHAPTER 42. FOUNDATION SCHOOL PROGRAM

13 SUBCHAPTER A. GENERAL PROVISIONS

14 Sec. 42.001. STATE POLICY. (a) It is the policy of this  
15 state that the provision of public education is a state  
16 responsibility and that a thorough and efficient system be provided  
17 and substantially financed through state revenue sources so that  
18 each student enrolled in the public school system shall have access  
19 to programs and services that are appropriate to the student's  
20 educational needs and that are substantially equal to those  
21 available to any similar student, notwithstanding varying local  
22 economic factors.

23 (b) The public school finance system of this state shall  
24 adhere to a standard of neutrality that provides for substantially  
25 equal access to similar revenue per student at similar tax effort,  
26 considering all state and local revenues of districts after  
27 acknowledging all legitimate student and district cost

1 differences.

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

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

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

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

10 (b) The Foundation School Program consists of:

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

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

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

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

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

24 (b) A student to whom Subsection (a) does not apply is  
25 entitled to the benefits of the Foundation School Program if the  
26 student is enrolled in a prekindergarten class under Section  
27 29.153.

1       (c) A child may be enrolled in the first grade if the child  
2 is at least six years of age at the beginning of the school year of  
3 the district or has been enrolled in the first grade or has  
4 completed kindergarten in the public schools in another state  
5 before transferring to a public school in this state.

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

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

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

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

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

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

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

26           (2) for a district that operates under a flexible year  
27 program under Section 29.0821, the quotient of the sum of

1 attendance for each actual day of instruction as permitted by  
2 Section 29.0821(b)(1) divided by the number of actual days of  
3 instruction as permitted by Section 29.0821(b)(1); or

4 (3) for a district that operates under a flexible  
5 school day program under Section 29.0822, the average daily  
6 attendance as calculated by the commissioner in accordance with  
7 Section 29.0822(d).

8 (b) A school district that experiences a decline of more  
9 than two percent in average daily attendance shall be funded on the  
10 basis of:

11 (1) the actual average daily attendance of the  
12 preceding school year, if the decline is the result of the closing  
13 or reduction in personnel of a military base; or

14 (2) an average daily attendance equal to 98 percent of  
15 the actual average daily attendance of the preceding school year,  
16 if the decline is not the result of the closing or reduction in  
17 personnel of a military base.

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

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

26 (e) A public charter district is not entitled to funding  
27 based on an adjustment under Subsection (b).

1       (f) If a student may receive course credit toward the  
2 student's high school academic requirements and toward the  
3 student's higher education academic requirements for a single  
4 course, the time during which the student attends the course shall  
5 be counted as part of the minimum number of instructional hours  
6 required for a student to be considered a full-time student in  
7 average daily attendance for purposes of this section.

8       Sec. 42.006. EQUALIZED FUNDING ELEMENTS. (a) The  
9 Legislative Budget Board shall adopt rules, subject to appropriate  
10 notice and opportunity for public comment, for the calculation for  
11 each year of a biennium of the equalized funding elements, in  
12 accordance with Subsection (c), necessary to achieve the state  
13 policy under Section 42.001.

14       (b) Before each regular session of the legislature, the  
15 board shall, as determined by the board, report the equalized  
16 funding elements to the commissioner and the legislature.

17       (c) The funding elements must include:

18           (1) an accreditation allotment amount for the purposes  
19 of Section 42.101 that represents the cost per student of a regular  
20 education program that meets all mandates of law and regulation;

21           (2) adjustments designed to reflect the variation in  
22 known resource costs and costs of education beyond the control of  
23 school districts;

24           (3) appropriate program cost differentials and other  
25 funding elements for the programs authorized under Subchapter C,  
26 with the program funding level expressed as total dollar amounts  
27 for each program and the specific dollar amount to be provided for

1 each eligible student or course for the appropriate year;

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

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

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

8 (d) The board shall conduct a study of the funding elements  
9 each biennium, as appropriate. The study must include a  
10 determination of the projected cost to the state in the next state  
11 fiscal biennium of ensuring the ability of each school district to  
12 comply with all legal mandates and regulations without increasing  
13 district tax rates.

14 (e) Notwithstanding Subsection (d), the board shall  
15 contract for a comprehensive study of the funding elements. The  
16 scope of the study shall include an investigation of uncontrollable  
17 variations in the costs of education due to diseconomies of scale or  
18 geographic variations in the costs of hiring highly qualified  
19 teachers. To the extent practicable, the study shall examine  
20 uncontrollable variations in the costs of providing the recommended  
21 high school program in small, mid-sized, and urban school  
22 districts. The board shall report the results of the study to the  
23 commissioner and the legislature not later than December 1, 2008.  
24 This subsection expires January 1, 2009.

25 (f) The study required by Subsection (e) must include a  
26 component on funding elements relating to special education  
27 programs and services. The special education component must

1 include a review of the current funding elements relating to  
2 special education programs and services, an analysis of funding  
3 mechanisms used by other states, the solicitation and consideration  
4 of recommendations from persons with expertise in the area of  
5 special education, a review of best practices in the area of special  
6 education, and the development of recommendations for a funding  
7 system that supports success for students with disabilities and  
8 that appropriately recognizes the variance in needs for specialized  
9 services, including related services, without providing fiscal  
10 incentives to improperly identify or fail to identify students who  
11 need special education services. Regardless of the date on which  
12 the report under Subsection (e) is required to be submitted, the  
13 board shall submit a report on the results of the special education  
14 component required by this subsection to the commissioner and the  
15 legislature not later than December 1, 2006. This subsection  
16 expires January 1, 2007.

17 Sec. 42.007. REFERENCE TO FOUNDATION SCHOOL FUND. A  
18 reference in law to the foundation school fund means the Texas  
19 education fund.

20 Sec. 42.008. REPORT ON EDUCATION SPENDING. Before each  
21 regular session of the legislature, the Legislative Budget Board  
22 shall submit to the commissioner and the legislature a report that  
23 includes:

24 (1) a description of the amount of all spending on  
25 primary and secondary education in this state, disaggregated by  
26 federal, state, and local spending and spending by private  
27 entities; and

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

2           [Sections 42.009-42.100 reserved for expansion]

3                   SUBCHAPTER B. BASIC PROGRAM

4           Sec. 42.101. ACCREDITATION ALLOTMENT AND SPECIAL STUDENT  
5 ALLOTMENTS. (a) For each student in average daily attendance, a  
6 school district is entitled to an accreditation allotment of  
7 \$4,600.

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

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

13           [Sections 42.102-42.150 reserved for expansion]

14                   SUBCHAPTER C. SPECIAL STUDENT ALLOTMENTS

15           Sec. 42.151. SPECIAL EDUCATION ALLOTMENTS. (a) In this  
16 section:

17           (1) "Full-time equivalent student" means 30 hours of  
18 contact a week between a student and special education program  
19 personnel.

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

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

26           (c) For each full-time equivalent student in average daily  
27 attendance in a special education program in an instructional

1 arrangement other than a mainstream instructional arrangement, a  
2 school district is entitled to an annual allotment in the following  
3 amount, based on the student's instructional arrangement:

4 (1) \$17,370, for a student in a homebound  
5 instructional arrangement;

6 (2) \$8,602, for a student in a hospital class  
7 instructional arrangement;

8 (3) \$17,370, for a student in a speech therapy  
9 instructional arrangement;

10 (4) \$8,602, for a student in a resource room  
11 instructional arrangement;

12 (5) \$8,602, for a student in a self-contained, mild  
13 and moderate, regular campus instructional arrangement;

14 (6) \$8,602, for a student in a self-contained, severe,  
15 regular campus instructional arrangement;

16 (7) \$7,287, for a student in an off-home-campus  
17 instructional arrangement;

18 (8) \$2,903, for a student in a nonpublic day school;

19 (9) \$5,533, for a student in a vocational adjustment  
20 class;

21 (10) \$12,986, for a student who resides in a  
22 residential care and treatment facility, other than a state school,  
23 whose parent or guardian does not reside in the district, and who  
24 receives educational services from a local school district; and

25 (11) \$7,726, for a student who resides in a state  
26 school.

27 (d) For funding purposes, the number of contact hours

1 credited per day for each special education student in the  
2 off-home-campus instructional arrangement may not exceed the  
3 contact hours credited per day for the multidistrict class  
4 instructional arrangement in the 1992-1993 school year.

5 (e) For funding purposes, the contact hours credited per day  
6 for each special education student in the resource room;  
7 self-contained, mild and moderate, regular campus; and  
8 self-contained, severe, regular campus instructional arrangements  
9 may not exceed the average of the statewide total contact hours  
10 credited per day for those three instructional arrangements in the  
11 1992-1993 school year.

12 (f) The commissioner by rule shall prescribe the  
13 qualifications a special education instructional arrangement must  
14 meet in order to be funded as a particular instructional  
15 arrangement under this chapter. In prescribing the qualifications  
16 that a mainstream instructional arrangement must meet, the  
17 commissioner shall require that students with disabilities and  
18 their teachers receive the direct, indirect, and support services  
19 that are necessary to enrich the regular classroom and enable  
20 student success.

21 (g) The commissioner shall adopt rules and procedures  
22 governing contracts for residential placement of special education  
23 students. The legislature shall provide by appropriation for the  
24 state's share of the costs of those placements.

25 (h) Funds allocated under this section, other than an  
26 indirect cost allotment established under commissioner rule, must  
27 be used in the special education program under Subchapter A,

1 Chapter 29.

2 (i) The agency shall encourage the placement of students in  
3 special education programs, including students in residential  
4 instructional arrangements, in the least restrictive environment  
5 appropriate for students' educational needs.

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

13 (k) A school district that provides an extended year program  
14 required by federal law for special education students who may  
15 regress is entitled to receive, for each full-time equivalent  
16 student in average daily attendance, funds in an amount equal to 75  
17 percent, or a lesser percentage determined by the commissioner, of  
18 the sum of the accreditation allotment and the additional allotment  
19 for the student's instructional arrangement under this section for  
20 each day the program is provided divided by the number of days in  
21 the minimum school year. The total amount of state funding for  
22 extended year services under this subsection may not exceed \$10  
23 million per year. A school district may use funds received under  
24 this subsection only in providing an extended year program.

25 (l) From the total amount of funds appropriated for special  
26 education under this chapter, the commissioner shall withhold an  
27 amount specified in the General Appropriations Act and distribute

1 that amount to school districts for programs under Section 29.014.  
2 The program established under that section is required only in  
3 school districts in which the program is financed by funds  
4 distributed under this subsection and any other funds available for  
5 the program. After deducting the amount withheld under this  
6 subsection from the total amount appropriated for special  
7 education, the commissioner shall reduce each district's  
8 allocation proportionately.

9 (m) From the total amount appropriated for purposes of this  
10 section, the commissioner shall set aside an amount necessary to  
11 pay the cost of the study of the funding elements for special  
12 education required by Section 42.006(f). After setting aside funds  
13 under this subsection, the commissioner shall reduce each  
14 district's allotment in the manner provided by Section 42.313(f).  
15 This subsection expires September 1, 2007.

16 Sec. 42.152. ACCELERATED PROGRAMS ALLOTMENT. (a) A school  
17 district is entitled to an annual allotment for the costs of  
18 providing accelerated programs in an amount determined by the  
19 formula:

$$\text{APA} = F \times \text{ADA} \times \text{PR}$$

21 where:

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

23 "ADA" is the district's total number of students in average  
24 daily attendance;

25 "F" is the funding factor, which is 877, but not less than the  
26 amount equal to 19 percent of the accreditation allotment under  
27 Section 42.101; and

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

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

13       (c) From the total amount of funds appropriated for  
14 allotments under this section, the commissioner may, each fiscal  
15 year:

16               (1) withhold an amount determined by the commissioner  
17 as appropriate to finance activities under Section 39.024(d);

18               (2) withhold an amount not exceeding \$1 million each  
19 fiscal year and distribute the funds to school districts that incur  
20 unanticipated expenditures resulting from a significant increase  
21 in the enrollment of students who do not have disabilities and who  
22 reside in residential placement facilities; and

23               (3) withhold an amount determined by the commissioner  
24 as appropriate to finance the agency's administrative expenses in  
25 conducting activities under Section 39.1321.

26       (d) From the total amount of funds appropriated for  
27 allotments under this section, the commissioner shall, each fiscal

1 year:

2 (1) withhold an amount determined by the commissioner  
3 as appropriate to finance activities under Section 39.024(c);

4 (2) withhold an amount to be determined by the  
5 commissioner, but not less than \$10 million, and distribute that  
6 amount for programs under Section 29.085, giving preference to a  
7 school district that received funds for a program under that  
8 section for the preceding school year;

9 (3) withhold the amount of \$7.5 million, or a greater  
10 amount as determined in the General Appropriations Act, and  
11 distribute that amount for programs under Subchapter A, Chapter 33,  
12 giving preference to a school district that received funds for a  
13 program under that subchapter for the preceding school year;

14 (4) withhold the amount of \$2.5 million for transfer  
15 to the investment capital fund under Section 7.024; and

16 (5) withhold an amount sufficient to finance extended  
17 year programs under Section 29.082, not to exceed five percent of  
18 the amounts allocated under this section, giving preference to  
19 extended year programs in districts with high concentrations of  
20 educationally disadvantaged students.

21 (e) After deducting the amounts withheld under Subsections  
22 (c) and (d) from the total amount appropriated for the allotments  
23 under this section, the commissioner shall reduce each district's  
24 allocation proportionately.

25 (f) Notwithstanding any other provision of law, a district  
26 may use funds allocated under this section to provide Saturday  
27 classes for students in grade levels one through four who fail to

1 perform satisfactorily on an assessment instrument administered  
2 under Section 39.023 or otherwise fail to perform satisfactorily,  
3 as determined by the district. A district may contract with another  
4 entity to provide Saturday classes under this subsection.

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

9 (1) if the student is enrolled below the ninth grade  
10 level, \$500, but not less than the amount equal to 10 percent of the  
11 accreditation allotment under Section 42.101; or

12 (2) if the student is enrolled at or above the ninth  
13 grade level, \$1,000, but not less than the amount equal to 21  
14 percent of the accreditation allotment under Section 42.101.

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

17 (c) A district is not entitled to an allotment under this  
18 section for a student who meets the criteria for transferring out of  
19 the district's bilingual education or special language program  
20 unless the student is reenrolled in the program under Section  
21 29.0561.

22 Sec. 42.154. CAREER AND TECHNOLOGY EDUCATION ALLOTMENT.

23 (a) For each student in average daily attendance in an approved  
24 career and technology education program in grades eight through 12,  
25 a district is entitled to an annual allotment of \$178 for each  
26 annual credit hour the student is enrolled in the program, or a  
27 greater amount for any school year provided by appropriation. This

1 subsection expires September 1, 2007.

2 (b) Beginning September 1, 2007, a district is entitled to  
3 an annual allotment of \$178, or a greater amount for any school year  
4 provided by appropriation, for each annual credit hour a student in  
5 grades eight through 12 completes in the following career and  
6 technology courses:

7 (1) advanced technical credit courses as approved by a  
8 statewide advisory leadership committee for statewide  
9 articulation;

10 (2) courses that lead to professional certification,  
11 licensure, or a degree program; or

12 (3) courses designed for special education students.

13 (c) The commissioner shall establish a pilot program under  
14 which participating districts receive the allotment described by  
15 Subsection (a) or (b), as applicable, for students in grade seven.  
16 The commissioner shall establish the pilot program in each county  
17 that borders the Intracoastal Waterway and:

18 (1) has a population of at least 313,000 and contains a  
19 municipality with a population of at least 277,000;

20 (2) has a population of at least 67,000 and adjoins a  
21 county described by Subdivision (1);

22 (3) has a population of at least 22,000 and adjoins a  
23 county described by Subdivision (2); or

24 (4) has a population of at least 20,000 and adjoins a  
25 county described by Subdivision (3).

26 (d) The commissioner shall establish a committee to study  
27 the effectiveness of career and technology education programs and

1 the manner in which the programs have affected graduation rates.  
2 Not later than January 1, 2012, the committee shall submit a report  
3 to the legislature that contains the study's findings and  
4 recommendations regarding statewide funding of career and  
5 technology education programs in grade seven.

6 (e) Subsections (c) and (d) and this subsection expire  
7 September 1, 2012.

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

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

21 Sec. 42.156. GIFTED AND TALENTED ALLOTMENT. (a) For each  
22 identified student a school district serves in a program for gifted  
23 and talented students that the district certifies to the  
24 commissioner as complying with Subchapter D, Chapter 29, a district  
25 is entitled to an annual allotment of \$526, or a greater amount for  
26 any school year provided by appropriation.

27 (b) Not more than five percent of a district's students in

1 average daily attendance are eligible for funding under this  
2 section.

3 (c) After each district has received allotted funds for this  
4 program, the commissioner may use up to \$500,000 of the funds  
5 allocated under this section for programs such as MATHCOUNTS,  
6 Future Problem Solving, Odyssey of the Mind, and Academic  
7 Decathlon, as long as these funds are used to train personnel and  
8 provide program services. To be eligible for funding under this  
9 subsection, a program must be determined by the commissioner to  
10 provide services that are effective and consistent with the state  
11 plan for gifted and talented education.

12 [Sections 42.157-42.170 reserved for expansion]

13 Sec. 42.171. RESTRICTIONS ON USE OF ALLOTMENTS. (a) Unless  
14 specifically provided otherwise by this code, but subject to  
15 Section 42.172, a school district is not required to use amounts  
16 allotted under this subchapter for the program for which the  
17 amounts were allotted.

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

22 Sec. 42.172. MAINTENANCE OF EFFORT. (a) Notwithstanding  
23 any other provision of this code, but subject to Subsection (b), a  
24 school district may not spend in any school year for a program or  
25 service listed below an amount per student in average daily  
26 attendance that is less than the amount the district spent for that  
27 program or service per student in average daily attendance during

1 the 2005-2006 school year:

2 (1) a special education program under Subchapter A,  
3 Chapter 29;

4 (2) supplemental programs and services designed to  
5 eliminate any disparity in performance on assessment instruments  
6 administered under Subchapter B, Chapter 39, or disparity in the  
7 rates of high school completion between students at risk of  
8 dropping out of school, as defined by Section 29.081, and all other  
9 students;

10 (3) remedial and support programs under Section 29.081  
11 for students who are pregnant;

12 (4) programs for students who do not have a disability  
13 and reside in residential placement facilities in districts in  
14 which the student's parents or legal guardians do not reside;

15 (5) a bilingual education or special language program  
16 under Subchapter B, Chapter 29;

17 (6) a career and technology education program in  
18 grades nine through 12 or a career and technology education program  
19 for students with disabilities in grades seven through 12 under  
20 Sections 29.182, 29.183, and 29.184; or

21 (7) a gifted and talented program under Subchapter D,  
22 Chapter 29.

23 (b) The commissioner may authorize a school district to  
24 spend less than the amount required by this section if the  
25 commissioner, considering the district's unique circumstances,  
26 determines that the requirement imposes an undue hardship on the  
27 district.

1 [Sections 42.173-42.200 reserved for expansion]

2 SUBCHAPTER D. TRANSPORTATION ALLOTMENT

3 Sec. 42.201. TRANSPORTATION ALLOTMENT. (a) Each school  
4 district or county operating a regular transportation system is  
5 entitled to an allotment of \$1.50 per mile for each approved route  
6 mile traveled by the system.

7 (b) In adopting rules for the administration of the  
8 allotment under this section, the commissioner shall provide that  
9 within two miles of a school, only mileage that represents the most  
10 direct route to the school shall be eligible for reimbursement.

11 (c) If the amount of an allotment under this section that a  
12 school district or county receives exceeds the district's or  
13 county's cost of operating the transportation system, the district  
14 or county may use the excess funds for any legal purpose.

15 Sec. 42.202. HAZARDOUS CONDITIONS. A district or county  
16 may apply for and on approval of the commissioner receive an  
17 additional amount of up to 10 percent of its regular transportation  
18 allotment to be used for the transportation of children living  
19 within two miles of the school they attend who would be subject to  
20 hazardous traffic conditions if they walked to school. Each board  
21 of trustees shall provide to the commissioner the definition of  
22 hazardous conditions applicable to that district and shall identify  
23 the specific hazardous areas for which the allocation is requested.  
24 A hazardous condition exists where no walkway is provided and  
25 children must walk along or cross a freeway or expressway, an  
26 underpass, an overpass or a bridge, an uncontrolled major traffic  
27 artery, an industrial or commercial area, or another comparable

1 condition.

2 Sec. 42.203. PRIVATE OR COMMERCIAL TRANSPORTATION. The  
3 commissioner may grant an amount set by appropriation for private  
4 or commercial transportation for students from isolated areas. The  
5 need for this type of transportation grant shall be determined on an  
6 individual basis and the amount granted shall not exceed the actual  
7 cost. The grants may be made only in extreme hardship cases. A  
8 grant may not be made if the students live within two miles of an  
9 approved school bus route.

10 Sec. 42.204. TRANSPORTATION OF SPECIAL EDUCATION STUDENTS.  
11 Districts may use a portion of their allotment under Section 42.151  
12 to pay transportation costs for special education students, if  
13 necessary. The commissioner may grant an amount set by  
14 appropriation for private transportation to reimburse parents or  
15 their agents for transporting special education students. The  
16 mileage allowed shall be computed along the shortest public road  
17 from the student's home to school and back, morning and afternoon.  
18 The need for this type of transportation shall be determined on an  
19 individual basis and shall be approved only in extreme hardship  
20 cases.

21 Sec. 42.205. TEXAS SCHOOL FOR THE DEAF. The Texas School  
22 for the Deaf is entitled to an allotment under this subchapter. The  
23 commissioner shall determine the appropriate allotment.

24 [Sections 42.206-42.220 reserved for expansion]

25 SUBCHAPTER E. NEW INSTRUCTIONAL FACILITY ALLOTMENT

26 Sec. 42.221. NEW INSTRUCTIONAL FACILITY ALLOTMENT. A  
27 school district is entitled to an additional allotment as provided

1 by this subchapter for operational expenses associated with opening  
2 a new instructional facility.

3 Sec. 42.222. DEFINITIONS. In this subchapter:

4 (1) "Fast growth school district" means a school  
5 district that during the five school years preceding the opening of  
6 a new instructional facility has experienced an increase in  
7 enrollment of:

8 (A) greater than 10 percent; or

9 (B) more than 3,500 students.

10 (2) "Instructional facility" has the meaning assigned  
11 by Section 46.001.

12 Sec. 42.223. ALLOTMENT FOR FIRST YEAR OF OPERATION. (a)  
13 For the first school year in which students attend a new  
14 instructional facility, a school district other than a fast growth  
15 school district is entitled to an allotment of \$250 for each student  
16 in average daily attendance at the facility or a greater amount  
17 provided by appropriation.

18 (b) For the first school year in which students attend a new  
19 instructional facility, a fast growth school district is entitled  
20 to an allotment of \$375 for each student in average daily attendance  
21 at the facility or a greater amount provided by appropriation.

22 Sec. 42.224. ALLOTMENT FOR SECOND AND THIRD YEARS OF  
23 OPERATION. (a) For the second school year in which students attend  
24 a new instructional facility, a school district other than a fast  
25 growth school district is entitled to an allotment of \$250 for each  
26 additional student in average daily attendance at the facility or a  
27 greater amount provided by appropriation.

1       (b) For the second and third school years in which students  
2 attend a new instructional facility, a fast growth school district  
3 is entitled to an allotment of \$375 for each additional student in  
4 average daily attendance at the facility or a greater amount  
5 provided by appropriation.

6       (c) For purposes of this section, the number of additional  
7 students in average daily attendance at a facility is the  
8 difference between the number of students in average daily  
9 attendance in the current year at that facility and the number of  
10 students in average daily attendance at that facility in the  
11 preceding year.

12       Sec. 42.225. LIMIT ON APPROPRIATIONS; PRORATION OF  
13 ALLOTMENTS. (a) The amount appropriated for allotments under this  
14 subchapter may not exceed \$35 million in a school year.

15       (b) If the total amount of allotments to which school  
16 districts are entitled under this subchapter for a school year  
17 exceeds the amount appropriated for allotments under this  
18 subchapter, the commissioner shall reduce each district's  
19 allotment under this subchapter in the manner provided by Section  
20 42.313(f).

21       [Sections 42.226-42.250 reserved for expansion]

22               [Subchapter F reserved]

23               SUBCHAPTER G. ENRICHMENT PROGRAM

24       Sec. 42.251. PURPOSE. The purpose of the enrichment  
25 program component of the Foundation School Program is to provide  
26 each school district with the opportunity to supplement the basic  
27 program at a level of its own choice. An allotment under this

1 subchapter may be used for any legal purpose other than capital  
2 outlay or debt service.

3 Sec. 42.252. ALLOTMENT. (a) Each school district is  
4 guaranteed a specified amount per student in state and local funds  
5 for each cent of enrichment tax effort up to the maximum level  
6 specified in this subchapter. The amount of state support, subject  
7 only to the maximum amount under Section 42.253, is determined by  
8 the formula:

9 
$$\underline{GYA = (GL \times AF \times DETR \times 100) - LR}$$

10 where:

11 "GYA" is the guaranteed amount of state enrichment funds to  
12 be allocated to the district;

13 "GL" is the dollar amount guaranteed level, which is the  
14 amount of district enrichment tax revenue per cent of tax effort  
15 available to a school district at the 96th percentile in wealth per  
16 student, provided that a greater amount for any school year may be  
17 provided by appropriation;

18 "AF" is the application factor, which is determined by the  
19 commissioner by dividing the amount of the district's allotments  
20 under Subchapters B and C, as adjusted in accordance with  
21 Subchapter H, divided by the accreditation allotment specified in  
22 Section 42.101 for the applicable year;

23 "DETR" is the district enrichment tax rate of the school  
24 district, which is the district's adopted maintenance and  
25 operations tax rate minus the maximum rate specified under Section  
26 42.306 or otherwise provided by appropriation for purposes of that  
27 section, or, if applicable, the rate applicable to the district

1 under Section 41.101; and

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

6 (b) The percentile described by Subsection (a) for purposes  
7 of determining the dollar amount guaranteed level ("GL") applies  
8 beginning with the 2010-2011 school year. For the 2006-2007  
9 through 2009-2010 school years, GL is determined as provided by  
10 this subsection, except that a different amount may be provided by  
11 appropriation:

12 (1) for the 2006-2007 school year, GL is determined  
13 using a percentile that is equivalent to an amount of \$39.10;

14 (2) for the 2007-2008 school year, GL is determined  
15 using a percentile that is equivalent to an amount of \$39.70;

16 (3) for the 2008-2009 school year, GL is determined  
17 using a percentile that is equivalent to an amount of \$40.80; and

18 (4) for the 2009-2010 school year, GL is determined  
19 using the 95th percentile in wealth per student.

20 (c) This subsection and Subsection (b) expire September 1,  
21 2011.

22 Sec. 42.253. DISTRICT ENRICHMENT TAX. (a) The district  
23 enrichment tax rate may not exceed \$0.15 per \$100 of valuation.

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

26 (1) for the 2006 tax year, the rate of \$0.05 per \$100  
27 of valuation; and

1           (2) for the 2007 and 2008 tax years, the rate of \$0.10  
2 per \$100 of valuation.

3           (a-2) Notwithstanding Subsection (b), for the 2006 tax  
4 year, a school district may impose an enrichment tax under this  
5 section, without voter approval, at a rate not to exceed \$0.02 per  
6 \$100 of valuation. This subsection expires January 1, 2007.

7           (b) A school district's enrichment tax rate must be approved  
8 by the voters in accordance with Section 45.003 of this code and  
9 Section 26.08, Tax Code.

10           (c) Subsection (a-1) and this subsection expire January 1,  
11 2009.

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

19           [Sections 42.255-42.300 reserved for expansion]

20           SUBCHAPTER H. ADDITIONAL ADJUSTMENTS; FINANCING THE PROGRAM

21           Sec. 42.301. COST OF EDUCATION ADJUSTMENT. (a) The amounts  
22 of the accreditation allotments under Subchapter B and each special  
23 student allotment under Subchapter C are adjusted to reflect the  
24 geographic variation in known resource costs and costs of education  
25 due to factors beyond the control of the school district. The  
26 amount of the adjustment is 50 percent of the total amount that  
27 would result from application of the cost of education index

1 adopted under Subsection (b), or a greater amount for any school  
2 year provided by appropriation.

3 (b) The Legislative Budget Board shall adopt a cost of  
4 education index based on a statistical analysis conducted on a  
5 revenue neutral basis that is designed to isolate the independent  
6 effects of uncontrollable factors on the compensation that school  
7 districts must pay, including teacher salaries and other benefits.  
8 The analysis must include, at a minimum, variations in teacher  
9 characteristics, teacher work environments, and the economic and  
10 social conditions of the communities in which teachers reside.

11 (b-1) In this subsection, "teacher fixed effects index"  
12 means the teacher fixed effects index in the 2004 report  
13 commissioned by the Joint Select Committee on Public School Finance  
14 of the 78th Legislature, as adjusted so that there is not a greater  
15 difference between the highest index value and the lowest index  
16 value in the regional boundaries of a regional education service  
17 center than the difference that existed between the highest index  
18 value and lowest index value within the regional boundaries of that  
19 regional education service center under 19 T.A.C. Chapter 203, as  
20 that chapter existed on January 1, 2005. The commissioner shall  
21 increase the amount of the lowest adjustment in the regional  
22 boundaries of each regional education service center to satisfy  
23 the requirements of this subsection. Notwithstanding Subsection  
24 (a), the cost of education index for purposes of that subsection for  
25 the following school years is determined using the teacher fixed  
26 effects index in the following manner:

27 (1) for the 2006-2007 school year, the index shall be

1 computed giving a weight of 25 percent to the teacher fixed effects  
2 index and a weight of 75 percent to the index used to determine a  
3 school district's adjustment for the 2005-2006 school year;

4 (2) for the 2007-2008 school year, the index shall be  
5 computed giving a weight of 50 percent to the teacher fixed effects  
6 index and a weight of 50 percent to the index used to determine a  
7 school district's adjustment for the 2005-2006 school year;

8 (3) for the 2008-2009 school year, the index shall be  
9 computed giving a weight of 75 percent to the teacher fixed effects  
10 index and a weight of 25 percent to the index used to determine a  
11 school district's adjustment for the 2005-2006 school year; and

12 (4) for the 2009-2010 and 2010-2011 school years, the  
13 cost of education index for purposes of Subsection (a) is the  
14 teacher fixed effects index.

15 (b-2) All information relating to the computation and  
16 adoption of the cost of education index under this section,  
17 including underlying data, assumptions, and computations used in  
18 the development of the index, is public information.

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

23 (c-1) The Legislative Budget Board shall submit the initial  
24 update required by Subsection (c) not later than December 1, 2010.

25 (c-2) Subsections (b-1) and (c-1) and this subsection  
26 expire September 1, 2011.

27 (d) If the index value provided by this section for a school

1 district is less than the index value used to calculate the cost of  
2 education adjustment for that school district during the previous  
3 school year, the district's adjustment shall be computed using the  
4 index applied during the previous school year.

5 (e) A school district may apply to the agency for a  
6 correction of the computation of the adjustment for the district  
7 under this section. A review by the agency under this subsection  
8 must be limited to the computation and application of data under  
9 this section and may not include an appeal of the methodology used  
10 to compute the cost of education index.

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

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

19 (2) "ADA" is the number of students in average daily  
20 attendance for which the district is entitled to an accreditation  
21 allotment under Section 42.101, minus the sum of the number of  
22 full-time equivalent students in a special education program in a  
23 mainstream instructional arrangement and the number of full-time  
24 equivalent students in a career and technology program; and

25 (3) "SA" is the sum of the district's accreditation  
26 allotments under Subchapter B and each special student allotment  
27 under Subchapter C, as adjusted in accordance with Section 42.301.

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

$$6 \qquad A = ((1,600 - ADA) \times 0.0004) \times SA$$

7        (c) The sum of total accreditation allotments and any  
 8 special student allotments under Subchapter C of a school district  
 9 that contains less than 300 square miles and has not more than 1,600  
 10 students in average daily attendance is adjusted by applying the  
 11 formula:

$$12 \qquad A = ((1,600 - ADA) \times 0.000259) \times SA$$

13        (c-1) Subsection (c) applies beginning with the 2008-2009  
 14 school year. For the 2006-2007 and 2007-2008 school years, a school  
 15 district described by Subsection (c) is entitled to an adjustment  
 16 determined by applying the following formulas:

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

$$18 \qquad A = ((1,600 - ADA) \times 0.000247) \times SA; \text{ and}$$

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

$$20 \qquad A = ((1,600 - ADA) \times 0.000248) \times SA$$

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

27            (1) the formula in Subsection (b) or (c) for which the

1 district is eligible; or

2 (2)  $A = ((5,000 - ADA) \times 0.0000259) \times SA$

3 (d-1) Subsection (d) applies beginning with the 2008-2009  
4 school year. For the 2006-2007 and 2007-2008 school years, a school  
5 district described by Subsection (d) is entitled to an adjustment  
6 determined by applying the following formulas that result in the  
7 greatest adjusted allotment:

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

9 (A) the formula in Subsection (b) or (c-1)(1) for  
10 which the district is eligible; or

11 (B)  $A = ((5,000 - ADA) \times 0.0000247) \times SA$ ; and

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

13 (A) the formula in Subsection (b) or (c-1)(2) for  
14 which the district is eligible; or

15 (B)  $A = ((5,000 - ADA) \times .00002476) \times SA$

16 (e) In addition to the adjustment otherwise provided by this  
17 section, the commissioner shall, in accordance with rules adopted  
18 by the commissioner, provide an additional adjustment for each  
19 school district that is located in a county with a population of  
20 less than 5,000 and that contains a majority of the territory in the  
21 county. The total amount distributed under this section may not  
22 exceed \$3 million in any fiscal year.

23 (f) The commissioner may make the adjustment authorized by  
24 Subsection (d)(2), (d-1)(1)(B), or (d-1)(2)(B) only if the district  
25 is not subject to additional equalization under Section 42.401.  
26 For purposes of this subsection, the adjustment provided by  
27 Subsection (d)(2), (d-1)(1)(B), or (d-1)(2)(B) is not used in

1 determining whether the district is subject to additional  
2 equalization under Section 42.401.

3 (g) Subsections (c-1) and (d-1) and this subsection expire  
4 September 1, 2009.

5 Sec. 42.303. SPARSITY ADJUSTMENT. Notwithstanding  
6 Sections 42.101 and 42.302:

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

14 (2) a school district that offers a kindergarten  
15 through grade eight program and whose preceding or current year's  
16 average daily attendance was or is at least 50 students or that is  
17 30 miles or more by bus route from the nearest high school district  
18 is entitled to an adjusted accreditation allotment on the basis of  
19 75 students in average daily attendance; and

20 (3) a school district that offers a kindergarten  
21 through grade six program and whose preceding or current year's  
22 average daily attendance was or is at least 40 students or that is  
23 30 miles or more by bus route from the nearest high school district  
24 is entitled to an adjusted accreditation allotment on the basis of  
25 60 students in average daily attendance.

26 Sec. 42.304. FINANCING: GENERAL RULE. (a) The sum of the  
27 accreditation allotments under Subchapter B and the additional

1 allotments under Subchapters C, D, and E, as adjusted in accordance  
2 with this subchapter, constitutes the tier one allotments. The sum  
3 of the tier one allotments and the enrichment program allotments  
4 under Subchapter G constitutes the total cost of the Foundation  
5 School Program.

6 (b) The program shall be financed by:

7 (1) state funds appropriated for the purposes of  
8 public school education;

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

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

14 (4) state available school funds distributed in  
15 accordance with law.

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

23 Sec. 42.3051. STAFF COMPENSATION AND ADDITIONAL STATE AID.

24 (a) For the 2006-2007 school year, a school district shall provide  
25 district employees compensation in the form of annual salaries,  
26 incentives, or other compensation determined appropriate by the  
27 district that results in a total compensation increase for all

1 district employees over the compensation paid in the 2005-2006  
2 school year in an amount equal to the product of \$250 and the total  
3 number of classroom teachers, full-time librarians, full-time  
4 counselors certified under Subchapter B, Chapter 21, and full-time  
5 school nurses employed by the district.

6 (b) A payment under this section is in addition to  
7 compensation a school district would otherwise pay an employee  
8 during the school year.

9 (c) A school district, including a school district that is  
10 otherwise ineligible for state aid under this chapter, is entitled  
11 to state aid in an amount, as determined by the commissioner, equal  
12 to the difference, if any, between:

13 (1) an amount equal to the product of \$3,000  
14 multiplied by the number of classroom teachers, full-time  
15 librarians, full-time counselors certified under Subchapter B,  
16 Chapter 21, and full-time school nurses employed by the district  
17 and entitled to a minimum salary under Section 21.402; and

18 (2) the amount of additional funds to which the  
19 district is entitled as a result of S.B. No. 8, Acts of the 79th  
20 Legislature, 2nd Called Session, 2005.

21 (d) Section 42.311(b) applies to any determinations made  
22 under Subsection (a).

23 (e) A determination by the commissioner under this section  
24 is final and may not be appealed.

25 (f) The commissioner may adopt rules to implement this  
26 section.

27 Sec. 42.3052. CRISIS INTERVENTION FUNDING. (a) To the

1 extent consistent with this section, the commissioner may set aside  
2 funds appropriated to the agency for purposes of the Foundation  
3 School Program to provide temporary emergency assistance to a  
4 school district responding to flood, extreme weather conditions,  
5 fuel curtailment, severe financial crisis, or other crisis or  
6 disaster, as determined appropriate by the commissioner. The  
7 commissioner may determine funding priorities under this section.

8 (b) Before setting aside funds under this section, the  
9 commissioner shall notify the Legislative Budget Board and the  
10 governor.

11 (c) The commissioner may not set aside funds under this  
12 section if doing so would require proration of Foundation School  
13 Program entitlements under this chapter.

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

$$17 \quad \quad \quad \underline{LS = TR \times DPV}$$

18 where:

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

20 "TR" is a tax rate that for each \$100 of valuation is an  
21 adopted tax rate of \$1.20, or a lesser rate for any school year  
22 provided by appropriation; and

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

26 (b) The commissioner shall adjust the values reported in the  
27 official report of the comptroller as required by Section 403.302,

1 Government Code, to reflect reductions in taxable value of property  
2 resulting from natural or economic disaster after January 1 in the  
3 year in which the valuations are determined. The decision of the  
4 commissioner is final. An adjustment does not affect the local  
5 share of any other school district.

6 (c) A school district with a tax rate ("TR") of \$1.20 or the  
7 rate otherwise provided by appropriation for purposes of Subsection  
8 (a) is eligible to receive the full amount of the tier one allotment  
9 to which the district is entitled under this chapter.

10 (d) If a school district's tax rate ("TR") is less than  
11 \$1.20 or the rate otherwise provided by appropriation for purposes  
12 of Subsection (a), the district's tier one allotment is adjusted by  
13 a percentage determined by dividing the district's tax rate ("TR")  
14 by \$1.20 or the rate otherwise provided by appropriation for  
15 purposes of Subsection (a) and multiplying the resulting quotient  
16 by 100. The commissioner shall determine the amount of the tier one  
17 allotment to which a district is entitled under this subsection.  
18 The commissioner's determination is final and may not be appealed.

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

23 Sec. 42.307. ADJUSTMENT FOR RAPID DECLINE IN TAXABLE VALUE  
24 OF PROPERTY. (a) For purposes of Chapter 46 and this chapter, and  
25 to the extent money specifically authorized to be used under this  
26 section is available, the commissioner shall adjust the taxable  
27 value of property in a school district that, due to factors beyond

1 the control of the board of trustees, experiences a rapid decline in  
2 the tax base used in computing taxable values in excess of four  
3 percent of the tax base used in the preceding year.

4 (b) To the extent that a sufficient amount of money is not  
5 available to fund all adjustments under this section, the  
6 commissioner shall reduce adjustments in the manner provided by  
7 Section 42.313(f) so that the total amount of adjustments equals  
8 the amount of money available to fund the adjustments.

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

11 Sec. 42.308. ADJUSTMENT FOR OPTIONAL HOMESTEAD EXEMPTION.

12 (a) In any school year, the commissioner may not provide funding  
13 under this chapter based on a school district's taxable value of  
14 property computed in accordance with Section 403.302(d)(2),  
15 Government Code, unless:

16 (1) funds are specifically appropriated for purposes  
17 of this section; or

18 (2) the commissioner determines that the total amount  
19 of state funds appropriated for purposes of the Foundation School  
20 Program for the school year exceeds the amount of state funds  
21 distributed to school districts in accordance with Section 42.313  
22 based on the taxable values of property in school districts  
23 computed in accordance with Section 403.302(d), Government Code,  
24 without any deduction for residence homestead exemptions granted  
25 under Section 11.13(n), Tax Code.

26 (b) In making a determination under Subsection (a)(2), the  
27 commissioner shall:

1           (1) notwithstanding Section 42.313(b), reduce the  
2 entitlement under this chapter of a school district whose final  
3 taxable value of property is higher than the estimate under Section  
4 42.314 and make payments to school districts accordingly; and

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

9           (c) In the first year of a state fiscal biennium, before  
10 providing funding as provided by Subsection (a)(2), the  
11 commissioner shall ensure that sufficient appropriated funds for  
12 purposes of the Foundation School Program are available for the  
13 second year of the biennium, including funds to be used for purposes  
14 of Section 42.307.

15           (d) If the commissioner determines that the amount of funds  
16 available under Subsection (a)(1) or (2) does not at least equal the  
17 total amount of state funding to which districts would be entitled  
18 if state funding under this chapter were based on the taxable values  
19 of property in school districts computed in accordance with Section  
20 403.302(d)(2), Government Code, the commissioner may, to the extent  
21 necessary, provide state funding based on a uniform lesser fraction  
22 of the deduction under Section 403.302(d)(2), Government Code.

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

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

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

10       (c) The commissioner shall recover the benefit of any  
11 adjustment made under this section by making offsetting adjustments  
12 in the school district's taxable value of property for purposes of  
13 this chapter or Chapter 46 on a final determination of the taxable  
14 value of property that was the basis of the original adjustment, or  
15 in the second school year following the year in which the adjustment  
16 is made, whichever is earlier.

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

19       Sec. 42.309. ADJUSTED PROPERTY VALUE FOR DISTRICTS NOT  
20 OFFERING ALL GRADE LEVELS. For purposes of this chapter, the  
21 taxable value of property of a school district that contracts for  
22 students residing in the district to be educated in another  
23 district under Section 25.039(a) is adjusted by applying the  
24 formula:

$$\text{ADPV} = \text{DPV} - (\text{TN}/\text{MTR})$$

25       where:

26       "ADPV" is the district's adjusted taxable value of property;  
27

1        "DPV" is the taxable value of property in the district for the  
2 preceding tax year determined under Subchapter M, Chapter 403,  
3 Government Code;

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

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

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

20        (b) If the district would have received a greater amount  
21 from the Texas education fund for the applicable school year using  
22 the adjusted value, the commissioner shall add the difference to  
23 subsequent distributions to the district from the Texas education  
24 fund. An adjustment does not affect the local share of any other  
25 district.

26        Sec. 42.311. ADDITIONAL TRANSITIONAL AID. (a)  
27 Notwithstanding any other provision of this subtitle, and provided

1 that a school district imposes a tax at a minimum rate specified by  
2 the commissioner, a school district is entitled to the amount of  
3 state revenue necessary to maintain state and local revenue per  
4 student in average daily attendance in the amount equal to the sum  
5 of:

6 (1) the amount of state and local revenue per student  
7 in average daily attendance for the maintenance and operation of  
8 the district to which the district would have been entitled for the  
9 2005-2006 school year under Chapter 42, as that chapter existed on  
10 January 1, 2006, or, if the district would have been subject to  
11 Chapter 41, as that chapter existed on January 1, 2006, the amount  
12 to which the district would have been entitled under that chapter,  
13 based on the funding elements in effect for the 2004-2005 school  
14 year, and including:

15 (A) any amounts described by Rider 82, page  
16 III-23, Chapter 1330, Acts of the 78th Legislature, Regular  
17 Session, 2003 (the General Appropriations Act);

18 (B) the portion of any profit the district  
19 received during the 2005-2006 school year as a result of an  
20 agreement under Subchapter E, Chapter 41, that exceeds the amount  
21 of state and local revenue that would have been available to the  
22 district during that school year if the district imposed a  
23 maintenance and operations tax of \$1.50 per \$100 of valuation  
24 during that school year;

25 (C) any amount necessary to reflect an adjustment  
26 made by the commissioner under Section 42.307; and

27 (D) any amount necessary to reflect an adjustment

1 made by the commissioner under Section 42.3081;

2 (2) an amount equal to three percent of the amount  
3 described by Subdivision (1); and

4 (3) the product of \$1,000 multiplied by the number of  
5 classroom teachers, full-time librarians, full-time counselors  
6 certified under Subchapter B, Chapter 21, and full-time nurses  
7 employed by the district and entitled to a minimum salary under  
8 Section 21.402.

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

13 (c) The commissioner shall determine the minimum tax rate  
14 for a school district under Subsection (a) on the basis of the tax  
15 rate adopted by the district for maintenance and operations for the  
16 2005-2006 school year. The commissioner shall compute the amount  
17 of state and local revenue in Subsection (a)(1) using a maintenance  
18 and operations tax rate that does not exceed \$1.50 for each \$100  
19 valuation of taxable property for both entitlement to state aid and  
20 collection of local taxes.

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

24 (e) Any amount to which a school district is entitled under  
25 Subchapter G is not included in determining the amount to which the  
26 district is entitled under this section.

27 Sec. 42.3111. IMPLEMENTATION OF REVENUE MAINTENANCE

1 PROVISIONS FOR DISTRICTS UNDER COUNTYWIDE EQUALIZATION SYSTEM. (a)

2 This section applies only to a school district that receives local  
3 property tax revenue from a countywide equalization tax imposed in  
4 accordance with former Chapter 18 and authorized by Section 11.301.

5 (b) In implementing any provision of this chapter that  
6 entitles a school district to maintain the amount of state and local  
7 revenue per student in average daily attendance that would have  
8 been available to the district using the funding elements under  
9 Chapters 41 and 42 in effect during the 2005-2006 school year, the  
10 commissioner shall consider the tax rate of each district receiving  
11 revenue from a countywide equalization tax to be the sum of the  
12 equalization tax rate and the rate imposed by the district.

13 Sec. 42.312. TEMPORARY LIMITATIONS ON AID. (a)

14 Notwithstanding any other provision of this subtitle, the  
15 commissioner shall withhold from a school district the amount of  
16 state funds necessary to ensure that the district does not receive  
17 an amount of state and local revenue per student in average daily  
18 attendance that is greater than the following percentage of the  
19 amount described by Section 42.311(a):

20 (1) 108 percent for the 2006-2007 school year;

21 (2) 116 percent for the 2007-2008 school year; and

22 (3) 124 percent for the 2008-2009 school year.

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

26 (c) Any amount to which a school district is entitled under  
27 Subchapter G is not included in determining the amount that the

1 district may receive under this section.

2 (d) Section 42.311(b) applies to any determinations made  
3 under this section.

4 (e) This section expires September 1, 2009.

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

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

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

12 (3) the amount of money allocated to a school district  
13 from the available school fund;

14 (4) the amount of a school district's tier one local  
15 share under Section 42.306; and

16 (5) the amount of a school district's enrichment  
17 program local revenue under Section 42.252.

18 (b) Except as provided by this subsection, the commissioner  
19 shall base the determinations under Subsection (a) on the estimates  
20 provided to the legislature under Section 42.314 for each school  
21 district for each school year. The General Appropriations Act may  
22 provide alternate estimates of tax rates or total taxable value of  
23 property for each school district for each school year, in which  
24 case those estimates shall be used in making the determinations  
25 under Subsection (a). The commissioner shall reduce the  
26 entitlement of each district that has a final taxable value of  
27 property for the second year of a state fiscal biennium that is

1 higher than the estimate under Section 42.314 or the General  
2 Appropriations Act, as applicable. A reduction under this  
3 subsection may not reduce the district's entitlement below the  
4 amount to which it is entitled at its actual taxable value of  
5 property.

6 (c) Each school district is entitled to an amount equal to  
7 the difference for that district between the sum of Subsections  
8 (a)(1) and (a)(2) and the sum of Subsections (a)(3), (a)(4), and  
9 (a)(5).

10 (d) The commissioner shall approve warrants to each school  
11 district equaling the amount of its entitlement, except as provided  
12 by this section. Warrants for all money expended according to this  
13 chapter shall be approved and transmitted to treasurers or  
14 depositories of school districts in the same manner as warrants for  
15 state available fund payments are transmitted. The total amount of  
16 the warrants issued under this section may not exceed the total  
17 amount appropriated for Foundation School Program purposes for that  
18 fiscal year.

19 (e) If a school district demonstrates to the satisfaction of  
20 the commissioner that the estimate of the district's tax rate,  
21 student enrollment, or taxable value of property used in  
22 determining the amount of state funds to which the district is  
23 entitled is so inaccurate as to result in undue financial hardship  
24 to the district, the commissioner may adjust funding to that  
25 district in that school year to the extent that funds are available  
26 for that year.

27 (f) If the total amount appropriated for a year is less than

1 the amount of money to which school districts are entitled for that  
2 year, the commissioner shall reduce the total amount of funds  
3 allocated to each district proportionately. The following fiscal  
4 year, a district's entitlement under this section is increased by  
5 an amount equal to the reduction made under this subsection.

6 (g) Not later than March 1 of each year, the commissioner  
7 shall determine the actual amount of state funds to which each  
8 school district is entitled under this chapter for the current  
9 school year and shall compare that amount with the amount of the  
10 warrants issued to each district for that year. If the amount of  
11 the warrants differs from the amount to which a district is entitled  
12 because of variations in the district's tax rate, student  
13 enrollment, or taxable value of property, the commissioner shall  
14 adjust the district's entitlement for the next fiscal year  
15 accordingly.

16 (g-1) Not later than March 1 of each even-numbered year, the  
17 commissioner shall identify each school district in which the  
18 actual student enrollment for the current school year is at least  
19 three percent higher or lower than the estimate of student  
20 enrollment used to determine the amount of warrants issued to the  
21 district for that year. Subject to available funding, the  
22 commissioner shall adjust the district's entitlement for the next  
23 fiscal year so that the district receives, during that year,  
24 warrants in the amount to which the district would be entitled on  
25 the basis of a student enrollment that is three percent higher or  
26 lower, as applicable, than the estimate of student enrollment  
27 otherwise used to determine the district's entitlement. To the

1 extent that money is available in the second year of a state fiscal  
2 biennium for adjustments under Subsection (g) and this subsection,  
3 the commissioner shall give priority to adjustments under this  
4 subsection.

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

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

13 (j) Notwithstanding any other provision of this chapter,  
14 the commissioner may adjust the amount of funds allocated to a  
15 school district under this chapter for a school year if the district  
16 collects less than 96 percent of the maintenance and operations  
17 taxes levied by the district during that school year. In making the  
18 determination regarding a district's collection rate for a school  
19 year for purposes of this subsection, the commissioner shall  
20 include any delinquent taxes collected during that year.

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

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

26 (2) the comptroller shall submit to the legislature an  
27 estimate of the total taxable value of all property in the state as

1 determined under Subchapter M, Chapter 403, Government Code, for  
2 the following biennium.

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

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

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

25 Sec. 42.316. PAYMENTS FROM TEXAS EDUCATION FUND. (a) In  
26 this section:

27 (1) "Category 1 school district" means a school

1 district having a wealth per student of less than one-half of the  
2 statewide average wealth per student.

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

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

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

14 (b) Payments from the Texas education fund to each category  
15 1 school district shall be made as follows:

16 (1) 15 percent of the yearly entitlement of the  
17 district shall be paid in an installment to be made on or before the  
18 25th day of September of a fiscal year;

19 (2) 80 percent of the yearly entitlement of the  
20 district shall be paid in eight equal installments to be made on or  
21 before the 25th day of October, November, December, January, March,  
22 May, June, and July; and

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

26 (c) Payments from the Texas education fund to each category  
27 2 school district shall be made as follows:

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

4           (2) 18 percent of the yearly entitlement of the  
5 district shall be paid in an installment to be made on or before the  
6 25th day of October;

7           (3) 9.5 percent of the yearly entitlement of the  
8 district shall be paid in an installment to be made on or before the  
9 25th day of November;

10           (4) 7.5 percent of the yearly entitlement of the  
11 district shall be paid in an installment to be made on or before the  
12 25th day of April;

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

16           (6) 10 percent of the yearly entitlement of the  
17 district shall be paid in an installment to be made on or before the  
18 25th day of June;

19           (7) 13 percent of the yearly entitlement of the  
20 district shall be paid in an installment to be made on or before the  
21 25th day of July; and

22           (8) 15 percent of the yearly entitlement of the  
23 district shall be paid in an installment to be made after the fifth  
24 day of September and not later than the 10th day of September of the  
25 calendar year following the calendar year of the payment made under  
26 Subdivision (1).

27           (d) Payments from the Texas education fund to each category

1 3 school district shall be made as follows:

2 (1) 45 percent of the yearly entitlement of the  
3 district shall be paid in an installment to be made on or before the  
4 25th day of September of a fiscal year;

5 (2) 35 percent of the yearly entitlement of the  
6 district shall be paid in an installment to be made on or before the  
7 25th day of October; and

8 (3) 20 percent of the yearly entitlement of the  
9 district shall be paid in an installment to be made after the fifth  
10 day of September and not later than the 10th day of September of the  
11 calendar year following the calendar year of the payment made under  
12 Subdivision (1).

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

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

24 Sec. 42.317. RECOVERY OF OVERALLOCATED FUNDS. (a) If a  
25 school district has received an overallocation of state funds, the  
26 agency shall, by withholding from subsequent allocations of state  
27 funds or by requesting and obtaining a refund, recover from the

1 district an amount equal to the overallocation.

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

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

11 [Sections 42.318-42.400 reserved for expansion]

12 SUBCHAPTER I. ADDITIONAL EQUALIZATION

13 Sec. 42.401. DISTRICTS SUBJECT TO ADDITIONAL EQUALIZATION.

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

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

22 SECTION 1B.02. Section 30.003, Education Code, is amended  
23 by adding Subsection (f-1) to read as follows:

24 (f-1) The commissioner shall determine the total amount  
25 that the Texas School for the Blind and Visually Impaired and the  
26 Texas School for the Deaf would have received from school districts  
27 pursuant to this section if S.B. No. 8 and .B. No. , Acts of the

1 79th Legislature, 2nd Called Session, 2005, had not reduced the  
2 districts' share of the cost of providing education services. That  
3 amount, minus any amount the schools do receive from school  
4 districts, shall be set aside as a separate account in the Texas  
5 education fund and appropriated to those schools for educational  
6 purposes.

7 SECTION 1B.03. The heading to Chapter 41, Education Code,  
8 is amended to read as follows:

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

10 SECTION 1B.04. Section 41.004, Education Code, is amended  
11 to read as follows:

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

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

21 (2) [~~each district to which the commissioner proposes~~  
22 ~~to annex property detached from a district notified under~~  
23 ~~Subdivision (1), if necessary, under Subchapter C, and~~

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

27 (b) If, before the dates provided by this subsection, a

1 district notified under Subsection (a)(1) has not purchased average  
 2 daily attendance credit as provided by Subchapter D [~~successfully~~  
 3 ~~exercised one or more options under Section 41.003 that reduce the~~  
 4 ~~district's wealth per student to a level equal to or less than the~~  
 5 ~~equalized wealth level~~], the commissioner [~~shall order the~~  
 6 ~~detachment of property from that district as provided by Subchapter~~  
 7 ~~G. If that detachment will not reduce the district's wealth per~~  
 8 ~~student to a level equal to or less than the equalized wealth level,~~  
 9 ~~the commissioner may not detach property under Subchapter G but~~  
 10 shall order the consolidation of the district with one or more other  
 11 districts as provided by Subchapter H. [~~An agreement under Section~~  
 12 ~~41.003(1) or (2) must be executed not later than September 1~~  
 13 ~~immediately following the notice under Subsection (a).]~~ An  
 14 election to authorize the purchase of average daily attendance  
 15 credit as provided by Subchapter D [~~for an option under Section~~  
 16 ~~41.003(3), (4), or (5)] must be ordered before September 1  
 17 immediately following the notice under Subsection (a).~~

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

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

25 (1) is effective for Foundation School Program funding  
 26 purposes for the school year that begins in the calendar year in  
 27 which the [~~detachment and annexation or~~] consolidation is [~~agreed~~

1 ~~to or~~] ordered; and

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

5 SECTION 1B.05. Section 41.006(a), Education Code, is  
6 amended to read as follows:

7 (a) The commissioner may adopt rules necessary for the  
8 implementation of this chapter. The rules may provide for the  
9 commissioner to make necessary adjustments to the provisions of  
10 Chapter 42, including providing for the commissioner to make an  
11 adjustment in the funding element established by Section 42.252  
12 [~~42.302~~], at the earliest date practicable, to the amount the  
13 commissioner believes, taking into consideration options exercised  
14 by school districts under Section 42.401 [~~this chapter~~] and  
15 estimates of student enrollments, will match appropriation levels.

16 SECTION 1B.06. Section 41.008(a), Education Code, is  
17 amended to read as follows:

18 (a) The governing board of a school district that results  
19 from consolidation under this chapter [~~, including a consolidated~~  
20 ~~taxing district under Subchapter F,~~] for the tax year in which the  
21 consolidation occurs may determine whether to adopt a homestead  
22 exemption provided by Section 11.13, Tax Code, and may set the  
23 amount of the exemption, if adopted, at any time before the school  
24 district adopts a tax rate for that tax year. This section applies  
25 only to an exemption that the governing board of a school district  
26 is authorized to adopt or change in amount under Section 11.13, Tax  
27 Code.

1 SECTION 1B.07. Section 41.009(a), Education Code, is  
2 amended to read as follows:

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

8 SECTION 1B.08. Section 41.010, Education Code, is amended  
9 to read as follows:

10 Sec. 41.010. TAX INCREMENT OBLIGATIONS. The payment of tax  
11 increments under Chapter 311, Tax Code, is not affected by the  
12 consolidation of territory [~~or tax bases or by annexation~~] under  
13 this chapter. In each tax year a school district paying a tax  
14 increment from taxes on property over which the district has  
15 assumed taxing power is entitled to retain the same percentage of  
16 the tax increment from that property that the district in which the  
17 property was located before the consolidation [~~or annexation~~] could  
18 have retained for the respective tax year.

19 SECTION 1B.09. Section 41.013(a), Education Code, is  
20 amended to read as follows:

21 (a) A [~~Except as provided by Subchapter C, a~~] decision of  
22 the commissioner under this chapter is appealable under Section  
23 7.057.

24 SECTION 1B.10. Section 41.091, Education Code, is amended  
25 to read as follows:

26 Sec. 41.091. AGREEMENT. A school district subject to  
27 Section 42.401 [~~with a wealth per student that exceeds the~~

1 ~~equalized wealth level]~~ may execute an agreement with the  
2 commissioner to purchase attendance credits in an amount equal to  
3 the difference between the district's local share under Section  
4 42.306 and the district's tier one allotment under Section 42.304.  
5 ~~[sufficient, in combination with any other actions taken under this~~  
6 ~~chapter, to reduce the district's wealth per student to a level that~~  
7 ~~is equal to or less than the equalized wealth level.]~~

8 SECTION 1B.11. Section 41.093(a), Education Code, is  
9 amended to read as follows:

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

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

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

20 SECTION 1B.12. Section 41.251, Education Code, is amended  
21 to read as follows:

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

1 SECTION 1B.13. Section 41.252, Education Code, is amended  
2 by amending Subsections (a) and (c) and adding Subsection (d) to  
3 read as follows:

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

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

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

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

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

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

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

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

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

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

17 SECTION 1B.14. Section 41.257, Education Code, is amended  
18 to read as follows:

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

26 SECTION 1B.15. Section 44.004, Education Code, is amended  
27 by adding Subsection (c-1) to read as follows:

1           (c-1) The notice described by Subsection (b) must state in a  
2 distinct row for each of the following taxes:

3           (1) the proposed rate for the school district's  
4 maintenance and operations tax described by Section 45.003, under  
5 the heading "Maintenance and Operations Tax";

6           (2) the proposed rate for the school district's  
7 interest and sinking fund tax described by Section 45.001, under  
8 the heading "Interest and Sinking School Debt Service Tax Approved  
9 by Local Voters"; and

10           (3) the proposed rate for the school district's  
11 enrichment tax described by Section 45.003, under the heading  
12 "Local Enrichment Tax Approved by Local Voters."

13           SECTION 1B.16. Section 45.003, Education Code, is amended  
14 by adding Subsection (f) to read as follows:

15           (f) Notwithstanding any other provision of this section, a  
16 district may not adopt a tax rate for the maintenance and operations  
17 of the district that exceeds the sum of the maximum rate for  
18 purposes of Section 42.253 and the rate specified in Section 42.306  
19 or otherwise provided for that section by appropriation unless that  
20 tax rate is approved by two-thirds of the qualified voters voting in  
21 an election held for that purpose. A district's adoption of a rate  
22 authorized by this subsection does not affect the limitation on a  
23 district's entitlement to enrichment revenue provided by Section  
24 42.253. This subsection does not authorize the adoption of a tax  
25 rate for the maintenance and operations of the district that  
26 exceeds the maximum rate prescribed by Subsection (d).

27           SECTION 1B.17. The heading to Section 26.08, Tax Code, is

1 amended to read as follows:

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

4           SECTION 1B.18. Section 26.08, Tax Code, is amended by  
5 amending Subsections (a), (b), (c), (e), (h), (i), and (j) and  
6 adding Subsections (a-1)-(a-5) and (b-1) to read as follows:

7           (a) Except as provided by Subsection (b), a school district  
8 must obtain voter authorization in an election each time the  
9 district adopts a tax rate for the maintenance and operations of the  
10 district that exceeds the rate levied by the district in the  
11 preceding tax year.

12           (a-1) Notwithstanding Section 45.003, Education Code, and  
13 except as provided by Subsection (a-2), (a-3), or (a-4), for the  
14 2006 tax year, a school district may not impose a tax for the  
15 maintenance and operations of the district that exceeds the greater  
16 of:

17                   (1) the rate equal to the sum of 80 percent of the rate  
18 adopted by the district for maintenance and operations for the 2004  
19 tax year; or

20                   (2) the rate necessary to ensure that the district  
21 receives the amount of revenue to which the district is entitled  
22 under Section 42.311, Education Code, provided that the rate may  
23 not exceed the sum of \$1.20 on the \$100 valuation of taxable  
24 property.

25           (a-2) For the 2006 tax year, a school district may, without  
26 holding an additional election, impose a tax for the maintenance  
27 and operations of the district at a rate that does not exceed the

1 lesser of the rate of \$1.20 or the sum of the rate authorized by  
2 Subsection (a-1) and the rate of \$0.04 per \$100 valuation of taxable  
3 value, provided that the rate imposed was previously authorized by  
4 voters in an election held for that purpose. A school district may  
5 impose a greater rate if the greater rate is approved by the voters  
6 in an election held after the effective date of S.B. No. 8, Acts of  
7 the 79th Legislature, 2nd Called Session, 2005.

8 (a-3) For the 2006 tax year, a school district permitted by  
9 Subsection (a-1) to impose a tax for the maintenance and operations  
10 of the district at the rate of \$1.20 on the \$100 valuation of  
11 taxable property may impose a tax for the maintenance and  
12 operations of the district at a higher rate if approved by the  
13 voters in an election held after the effective date of S.B. No. 8,  
14 Acts of the 79th Legislature, 2nd Called Session, 2005.

15 (a-4) Notwithstanding any other provision of law, a school  
16 district permitted by special law on January 1, 2006, to impose an  
17 ad valorem tax for maintenance and operations at a rate greater than  
18 \$1.50 on the \$100 valuation of taxable property in the district may,  
19 for the 2006 tax year:

20 (1) impose a tax for the maintenance and operations of  
21 the district at a rate not to exceed the rate that is \$0.30 less than  
22 the rate adopted by the district for maintenance and operations for  
23 the 2004 tax year, provided that, notwithstanding any other  
24 provision of law, the tax authorized by this subdivision may not be  
25 considered an enrichment tax rate for purposes of Subchapter G,  
26 Chapter 42, Education Code; and

27 (2) seek voter authorization to impose a tax for

1 maintenance and operations for purposes of Subchapter G, Chapter  
2 42, Education Code, at a rate greater than the rate authorized by  
3 Subdivision (1), provided that the rate authorized by this  
4 subdivision may not exceed the maximum tax permitted under  
5 Subchapter G, Chapter 42, Education Code.

6 (a-5) Subsections (a-1), (a-2), (a-3), and (a-4) and this  
7 subsection expire January 1, 2008.

8 (b) If the governing body of a school district with a  
9 maintenance and operations tax rate of less than the rate specified  
10 in Section 42.306 or otherwise provided by appropriation for  
11 purposes of that section adopts a tax rate that exceeds the  
12 district's rollback tax rate, the registered voters of the district  
13 at an election held for that purpose must determine whether to  
14 approve the adopted tax rate. When increased expenditure of money  
15 by a school district is necessary to respond to a disaster,  
16 including a tornado, hurricane, flood, or other calamity, but not  
17 including a drought, that has impacted a school district and the  
18 governor has requested federal disaster assistance for the area in  
19 which the school district is located, an election is not required  
20 under this section to approve the tax rate adopted by the governing  
21 body for the year following the year in which the disaster occurs.

22 (b-1) [~~(b)~~] The governing body shall order that the  
23 election required by Subsection (b) be held in the school district  
24 on a date not less than 30 or more than 90 days after the day on  
25 which it adopted the tax rate. Section 41.001, Election Code, does  
26 not apply to the election unless a date specified by that section  
27 falls within the time permitted by this section. At the election,

1 the ballots shall be prepared to permit voting for or against the  
2 proposition: "Approving the ad valorem tax rate of \$\_\_\_\_\_ per \$100  
3 valuation in (name of school district) for the current year, a rate  
4 that is \$\_\_\_\_\_ higher per \$100 valuation than the school district  
5 rollback tax rate." The ballot proposition must include the  
6 adopted tax rate and the difference between that rate and the  
7 rollback tax rate in the appropriate places.

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

11 (e) For purposes of Subsection (b) [~~this section~~], local tax  
12 funds dedicated to a junior college district under Section  
13 45.105(e), Education Code, shall be eliminated from the calculation  
14 of the tax rate adopted by the governing body of the school  
15 district. However, the funds dedicated to the junior college  
16 district are subject to Section 26.085.

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

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

25 (1) the tax rate that, applied to the current total  
26 value for the district, would impose taxes in an amount that, when  
27 added to state funds that would be distributed to the district under

1 Chapter 42, Education Code, for the school year beginning in the  
2 current tax year using that tax rate, would provide the same amount  
3 of state funds distributed under Chapter 42 and maintenance and  
4 operations taxes of the district per student in ~~[weighted]~~ average  
5 daily attendance for that school year that would have been  
6 available to the district in the preceding year if the funding  
7 elements for Chapters 41 and 42, Education Code, for the current  
8 year had been in effect for the preceding year;

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

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

12 (j) For purposes of Subsection (i), the amount of state  
13 funds that would have been available to a school district in the  
14 preceding year is computed using the district's ~~[maximum]~~ tax rate  
15 for that ~~[the current]~~ year ~~[under Section 42.253(e), Education~~  
16 ~~Code]~~.

17 SECTION 1B.19. Section 31.01, Tax Code, is amended by  
18 adding Subsection (b-1) to read as follows:

19 (b-1) In addition to other requirements of this section, a  
20 tax bill or the separate statement accompanying the tax bill for a  
21 school district must state in a distinct row for each of the  
22 following taxes:

23 (1) the rate for the maintenance and operations tax  
24 described by Section 45.003, Education Code, and the amount of tax  
25 due under that tax rate, under the heading "Maintenance and  
26 Operations Tax";

27 (2) the rate for the interest and sinking fund tax

1 described by Section 45.001, Education Code, and the amount of tax  
2 due under that tax rate, under the heading "Interest and Sinking  
3 School Debt Service Tax Approved by Local Voters"; and

4 (3) the rate for the enrichment tax described by  
5 Section 45.003, Education Code, and the amount of tax due under that  
6 tax rate, under the heading "Local Enrichment Tax Approved by Local  
7 Voters."

8 SECTION 1B.20. Effective on the 91st day after the last day  
9 of the legislative session, Section 311.013, Tax Code, as amended  
10 by S.B. No. 771, Acts of the 79th Legislature, Regular Session,  
11 2005, is amended by adding Subsection (n) to read as follows:

12 (n) This subsection applies only to a school district whose  
13 taxable value computed under Section 403.302(d), Government Code,  
14 is reduced in accordance with Subdivision (5) of that subsection.  
15 In addition to the amount otherwise required to be paid into the tax  
16 increment fund, the district shall pay into the fund an amount equal  
17 to the amount by which the amount of taxes the district would have  
18 been required to pay into the fund in the current year if the  
19 district levied taxes at the rate the district levied in 2004  
20 exceeds the amount the district is otherwise required to pay into  
21 the fund in the year of the reduction, not to exceed the amount the  
22 school district realizes from the reduction in the school  
23 district's taxable value under Section 403.302(d)(5), Government  
24 Code. This subsection ceases to apply to the school district on the  
25 earlier of the dates specified by Sections 311.017(a)(1) and (2)  
26 for the reinvestment zone.

27 SECTION 1B.21. Effective on the 91st day after the last day

1 of the legislative session, Section 403.302, Government Code, is  
2 amended by amending Subsections (d) and (i) and adding Subsections  
3 (c-1), (c-2), and (d-1) to read as follows:

4 (c-1) This subsection applies only to a school district  
5 whose central administrative office is located in a county with a  
6 population of 9,000 or less and a total area of more than 6,000  
7 square miles. If after conducting the annual study for a tax year  
8 the comptroller determines that the local value for a school  
9 district is not valid, the comptroller shall adjust the taxable  
10 value determined under Subsections (a) and (b) as follows:

11 (1) for each category of property sampled and tested  
12 by the comptroller in the school district, the comptroller shall  
13 use the weighted mean appraisal ratio determined by the study,  
14 unless the ratio is more than four percentage points lower than the  
15 weighted mean appraisal ratio determined by the comptroller for  
16 that category of property in the immediately preceding study, in  
17 which case the comptroller shall use the weighted mean appraisal  
18 ratio determined in the immediately preceding study minus four  
19 percentage points;

20 (2) the comptroller shall use the category weighted  
21 mean appraisal ratios as adjusted under Subdivision (1) to  
22 establish a value estimate for each category of property sampled  
23 and tested by the comptroller in the school district; and

24 (3) the value estimates established under Subdivision  
25 (2), together with the local tax roll value for any categories not  
26 sampled and tested by the comptroller, less total deductions  
27 determined by the comptroller, determines the taxable value for the

1 school district.

2 (c-2) Subsection (c-1) and this subsection expire September  
3 1, 2007.

4 (d) For the purposes of this section, "taxable value" means  
5 the market value of all taxable property less:

6 (1) the total dollar amount of any residence homestead  
7 exemptions lawfully granted under Section 11.13(b) or (c), Tax  
8 Code, in the year that is the subject of the study for each school  
9 district;

10 (2) one-half of the total dollar amount of any  
11 residence homestead exemptions granted under Section 11.13(n), Tax  
12 Code, in the year that is the subject of the study for each school  
13 district;

14 (3) the total dollar amount of any exemptions granted  
15 before May 31, 1993, within a reinvestment zone under agreements  
16 authorized by Chapter 312, Tax Code;

17 (4) subject to Subsection (e), the total dollar amount  
18 of any captured appraised value of property that:

19 (A) is within a reinvestment zone created on or  
20 before May 31, 1999, or is proposed to be included within the  
21 boundaries of a reinvestment zone as the boundaries of the zone and  
22 the proposed portion of tax increment paid into the tax increment  
23 fund by a school district are described in a written notification  
24 provided by the municipality or the board of directors of the zone  
25 to the governing bodies of the other taxing units in the manner  
26 provided by Section 311.003(e), Tax Code, before May 31, 1999, and  
27 within the boundaries of the zone as those boundaries existed on

1 September 1, 1999, including subsequent improvements to the  
2 property regardless of when made;

3 (B) generates taxes paid into a tax increment  
4 fund created under Chapter 311, Tax Code, under a reinvestment zone  
5 financing plan approved under Section 311.011(d), Tax Code, on or  
6 before September 1, 1999; and

7 (C) is eligible for tax increment financing under  
8 Chapter 311, Tax Code;

9 (5) for a school district for which a deduction from  
10 taxable value is made under Subdivision (4), an amount equal to the  
11 taxable value required to generate revenue when taxed at the school  
12 district's current tax rate in an amount that, when added to the  
13 taxes of the district paid into a tax increment fund as described by  
14 Subdivision (4)(B), is equal to the total amount of taxes the  
15 district would have paid into the tax increment fund if the district  
16 levied taxes at the rate the district levied in 2004;

17 (6) the total dollar amount of any exemptions granted  
18 under Section 11.251, Tax Code;

19 (7) [~~(6)~~] the difference between the comptroller's  
20 estimate of the market value and the productivity value of land that  
21 qualifies for appraisal on the basis of its productive capacity,  
22 except that the productivity value estimated by the comptroller may  
23 not exceed the fair market value of the land;

24 (8) [~~(7)~~] the portion of the appraised value of  
25 residence homesteads of individuals who receive a tax limitation  
26 under Section 11.26, Tax Code, on which school district taxes are  
27 not imposed in the year that is the subject of the study, calculated

1 as if the residence homesteads were appraised at the full value  
2 required by law;

3 (9) [~~(8)~~] a portion of the market value of property  
4 not otherwise fully taxable by the district at market value because  
5 of:

6 (A) action required by statute or the  
7 constitution of this state that, if the tax rate adopted by the  
8 district is applied to it, produces an amount equal to the  
9 difference between the tax that the district would have imposed on  
10 the property if the property were fully taxable at market value and  
11 the tax that the district is actually authorized to impose on the  
12 property, if this subsection does not otherwise require that  
13 portion to be deducted; or

14 (B) action taken by the district under Subchapter  
15 B or C, Chapter 313, Tax Code;

16 (10) [~~(9)~~] the market value of all tangible personal  
17 property, other than manufactured homes, owned by a family or  
18 individual and not held or used for the production of income;

19 (11) [~~(10)~~] the appraised value of property the  
20 collection of delinquent taxes on which is deferred under Section  
21 33.06, Tax Code;

22 (12) [~~(11)~~] the portion of the appraised value of  
23 property the collection of delinquent taxes on which is deferred  
24 under Section 33.065, Tax Code; [~~and~~]

25 (13) [~~(12)~~] the amount by which the market value of a  
26 residence homestead to which Section 23.23, Tax Code, applies  
27 exceeds the appraised value of that property as calculated under

1 that section; and

2 (14) for a district to which Section 41.0012,  
3 Education Code, applies, the total dollar amount of any residence  
4 homestead exemptions granted under Section 11.13(n), Tax Code, in  
5 the year that is the subject of the study for each school district.

6 (d-1) For a school district for which in the 2004 tax year a  
7 deduction from taxable value is made under Subsection (d)(5), the  
8 comptroller shall certify to the commissioner of education a final  
9 taxable value for the 2004 tax year, calculated as if the reduction  
10 in the school district's ad valorem tax rate and the method of  
11 calculating the amount of the deduction from taxable value under  
12 Subsection (d)(5) required by S.B. No. 8, Acts of the 79th  
13 Legislature, 2nd Called Session, 2005, took effect January 1, 2004.  
14 This subsection expires September 1, 2006.

15 (i) If the comptroller determines in the annual study that  
16 the market value of property in a school district as determined by  
17 the appraisal district that appraises property for the school  
18 district, less the total of the amounts and values listed in  
19 Subsection (d) as determined by that appraisal district, is valid,  
20 the comptroller, in determining the taxable value of property in  
21 the school district under Subsection (d), shall for purposes of  
22 Subsection (d)(13) [~~(d)(12)~~] subtract from the market value as  
23 determined by the appraisal district of residence homesteads to  
24 which Section 23.23, Tax Code, applies the amount by which that  
25 amount exceeds the appraised value of those properties as  
26 calculated by the appraisal district under Section 23.23, Tax Code.  
27 If the comptroller determines in the annual study that the market

1 value of property in a school district as determined by the  
2 appraisal district that appraises property for the school district,  
3 less the total of the amounts and values listed in Subsection (d) as  
4 determined by that appraisal district, is not valid, the  
5 comptroller, in determining the taxable value of property in the  
6 school district under Subsection (d), shall for purposes of  
7 Subsection (d)(13) [~~(d)(12)~~] subtract from the market value as  
8 estimated by the comptroller of residence homesteads to which  
9 Section 23.23, Tax Code, applies the amount by which that amount  
10 exceeds the appraised value of those properties as calculated by  
11 the appraisal district under Section 23.23, Tax Code.

12 SECTION 1B.22. Except as otherwise provided by this Act,  
13 this part takes effect September 1, 2006.

14 PART C. SCHOOL FACILITIES

15 SECTION 1C.01. Subchapter A, Chapter 46, Education Code, is  
16 amended by adding Section 46.014 to read as follows:

17 Sec. 46.014. STUDY REGARDING INSTRUCTIONAL FACILITIES. (a)  
18 The Legislative Budget Board, in cooperation with the agency, shall  
19 study existing instructional facilities in this state.

20 (b) The study of instructional facilities must include an  
21 examination of the following objectives and any other objectives  
22 determined appropriate by the Legislative Budget Board and the  
23 agency:

24 (1) information relating to the date of construction  
25 or age of existing instructional facilities;

26 (2) information relating to the condition of existing  
27 instructional facilities, including dates of the most recent major

1 renovations;

2 (3) a determination of the number of school districts  
3 and campuses that have student populations that exceed the state  
4 average for enrollment growth, including, if appropriate, a  
5 determination of:

6 (A) the number of portable buildings in use by  
7 each school district and campus;

8 (B) the square footage of instructional facility  
9 space per student; and

10 (C) the number of instructional facilities that  
11 are serving a number of students that exceeds the maximum capacity  
12 of the facility;

13 (4) a determination of the extent to which  
14 instructional facilities in this state are energy and water use  
15 efficient; and

16 (5) a determination of the extent of a school  
17 district's bonded indebtedness relating to facilities or  
18 replacement costs.

19 (c) The Legislative Budget Board and the agency shall  
20 determine the appropriate methodology for use in conducting the  
21 study required by this section.

22 (d) Not later than December 1, 2006, the Legislative Budget  
23 Board and the agency shall submit to the legislature a report based  
24 on the study required by this section. This section expires January  
25 15, 2007.

26 SECTION 1C.02. This part takes effect on the 91st day after  
27 the last day of the legislative session.

PART D. SOCIAL SECURITY CONTRIBUTIONS

SECTION 1D.01. Subchapter B, Chapter 606, Government Code, is amended by adding Section 606.0261 to read as follows:

Sec. 606.0261. PAYMENT OF SCHOOL DISTRICT CONTRIBUTIONS.

(a) Subject to Subsection (b), the state shall pay 50 percent of the total costs incurred by a school district in making contributions for social security coverage for the district's employees.

(a-1) Subsection (a) applies beginning with the 2008-2009 school year. For the 2006-2007 school year, the state shall pay 16 percent of the total costs described by Subsection (a). For the 2007-2008 school year, the state shall pay 33 percent of the total costs described by Subsection (a). This subsection expires September 1, 2009.

(b) Payment of state assistance under this section is limited to:

(1) school districts that covered district employees under the social security program before January 1, 2005; and

(2) contributions made on behalf of employees in a class of employees the district covered under the social security program before January 1, 2005.

(c) Using funds appropriated for the purpose, the commissioner of education shall distribute money to which school districts are entitled under this section in accordance with rules adopted by the commissioner.

SECTION 1D.02. This part takes effect September 1, 2006.

ARTICLE 2. EDUCATION EXCELLENCE

PART A. EDUCATION EMPLOYEES

SECTION 2A.01. Section 11.163, Education Code, is amended by adding Subsection (f) to read as follows:

(f) The employment policy may not restrict the ability of a school district employee to communicate directly with a member of the board of trustees regarding a matter relating to the operation of the district, except that the policy may prohibit:

(1) communication during:

(A) the employee's regular working hours at the district; or

(B) the operating hours of a district campus; and

(2) ex parte communication relating to:

(A) a hearing under Subchapter E or F, Chapter 21; and

(B) another appeal or hearing in which ex parte communication would be inappropriate pending a final decision by a school district board of trustees.

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

Sec. 11.203. SCHOOL LEADERSHIP PILOT PROGRAM FOR PRINCIPALS. (a) The agency shall develop and implement a school leadership pilot program for principals in cooperation with a nonprofit corporation that has substantial experience in developing best practices to improve leadership skills, student achievement, student graduation rates, and teacher retention.

(b) The agency shall consult business schools, departments,

1 or programs at institutions of higher education to develop program  
2 course work that focuses on management and business training.

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

6 (d) A principal of a campus rated academically  
7 unacceptable, as well as any person employed to replace that  
8 principal, shall participate in the program and complete the  
9 program requirements not later than a date determined by the  
10 commissioner.

11 (e) To pay the costs of administering the program, the  
12 commissioner shall retain a portion of the total amount of funds  
13 allotted under the Foundation School Program that the commissioner  
14 considers appropriate to finance activities under this section and  
15 shall reduce the total amount of state funds allocated to each  
16 district from any source in the same manner described for a  
17 reduction in allotments under Section 42.313.

18 (e-1) For the state fiscal biennium beginning September 1,  
19 2005, the amount set aside under Subsection (e) may not exceed \$3.6  
20 million. This subsection expires August 31, 2007.

21 (f) To implement and administer the program, the  
22 commissioner may accept grants, gifts, and donations from public  
23 and private entities.

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

26 (h) During the first semester of the 2008-2009 school year,  
27 the agency shall evaluate the effectiveness of the program in

1 developing and enhancing the ability of principals participating in  
2 the program to provide school leadership and improve student  
3 achievement and graduation rates and teacher retention. Not later  
4 than January 1, 2009, the agency shall submit a report explaining  
5 the results of the study to the governor, lieutenant governor,  
6 speaker of the house of representatives, and the presiding officers  
7 of the standing committees of each house of the legislature with  
8 primary jurisdiction over public education.

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

10 SECTION 2A.03. Sections 21.045(a) and (b), Education Code,  
11 are amended to read as follows:

12 (a) The commissioner [~~board~~] shall adopt [~~propose~~] rules  
13 establishing standards to govern the approval and continuing  
14 accountability of all educator preparation programs based on  
15 information that is disaggregated with respect to sex and ethnicity  
16 and that includes:

17 (1) results of the certification examinations  
18 prescribed under Section 21.048(a); [~~and~~]

19 (2) performance based on the appraisal system for  
20 beginning teachers adopted by the commissioner;

21 (3) performance of students taught by beginning  
22 teachers, as determined on the basis of incremental growth in  
23 student achievement, as measured under Section 39.034, and any  
24 other factor considered appropriate by the commissioner; and

25 (4) retention rates of beginning teachers in the  
26 profession [~~board~~].

27 (b) Each educator preparation program shall submit data

1 elements as required by the commissioner [~~board~~] for an annual  
2 performance report to ensure access and equity. At a minimum, the  
3 annual report must contain the performance data from Subsection  
4 (a), other than the data required for purposes of Subsection  
5 (a)(3), and the following information, disaggregated by sex and  
6 ethnicity:

- 7 (1) the number of candidates who apply;
- 8 (2) the number of candidates admitted;
- 9 (3) the number of candidates retained;
- 10 (4) the number of candidates completing the program;
- 11 (5) the number of candidates employed in the  
12 profession after completing the program; and
- 13 (6) the number of candidates retained in the  
14 profession.

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

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

19 (1) good cause as determined by the board of trustees;  
20 or

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

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

27 Sec. 21.1041. HEARING FOR CERTAIN DISCHARGES UNDER

1 PROBATIONARY CONTRACT. (a) If the board of trustees proposes to  
2 discharge a teacher under Section 21.104(a)(2), the board shall  
3 give written notice of the proposed action to the teacher.

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

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

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

18 (3) cross-examine adverse witnesses; and

19 (4) present evidence.

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

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

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

27 (d) If the teacher does not request a hearing under

1 Subsection (b), the board of trustees shall take the appropriate  
2 action to discharge the teacher and shall notify the teacher in  
3 writing of that action not later than the 30th day after the date  
4 the notice of proposed discharge for a financial exigency that  
5 requires a reduction in personnel was sent to the teacher.

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

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

12 (b) If the teacher desires a hearing after receiving notice  
13 of the proposed discharge, the teacher shall notify the board of  
14 trustees in writing, not later than the 15th day after the date the  
15 teacher receives the notice of the proposed action. The board shall  
16 provide for a hearing to be held not later than the 15th day after  
17 the date the board receives the request for a hearing unless the  
18 parties agree in writing to a different date. The hearing must be  
19 closed unless the teacher requests an open hearing. The hearing  
20 must be conducted in accordance with rules adopted by the board. At  
21 the hearing, the teacher may:

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

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

26 (3) cross-examine adverse witnesses; and

27 (4) present evidence.

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

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

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

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

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

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

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

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

23                (3) suspend the teacher without pay.

24        (b) This subchapter does not apply to:

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

27                (2) a decision not to renew a teacher's term contract,

1 unless the board of trustees of the employing district has decided  
2 to use the process prescribed by this subchapter for that purpose;  
3 or

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

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

9 (a) Not later than the 20th day after the date the board of  
10 trustees or board subcommittee announces its decision under Section  
11 21.259, ~~[or]~~ the board advises the teacher of its decision not to  
12 renew the teacher's contract under Section 21.208, or the board  
13 advises the teacher of its decision to terminate the teacher's  
14 probationary contract under Section 21.1041(c) or (d) or term  
15 contract under Section 21.2111(c) or (d), the teacher may appeal  
16 the decision by filing a petition 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 not  
23 substitute the commissioner's judgment for that of the board of  
24 trustees unless the decision was arbitrary, capricious, or unlawful  
25 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 (a-1), (a-2), (c-1), (c-2), (c-3), (c-4), and (c-5) to read as  
2 follows:

3 (a) Except as provided by Subsection (a-1), (a-2), (d),  
4 ~~[(e),]~~ or (f), a school district must pay each classroom teacher,  
5 full-time librarian, full-time counselor certified under  
6 Subchapter B, or full-time school nurse not less than the minimum  
7 monthly salary, based on the employee's level of experience,  
8 prescribed by Subsection (c) ~~[determined by the following formula:~~

9 
$$[MS = SF \times FS$$

10 ~~[where:~~

11 ~~["MS" is the minimum monthly salary,~~

12 ~~["SF" is the applicable salary factor specified by Subsection~~  
13 ~~(c), and~~

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 under~~  
17 ~~Section 42.302 with an enrichment tax rate, as defined by Section~~  
18 ~~42.302, equal to the maximum rate authorized under Section 42.303,~~  
19 ~~except that the amount of state and local funds per weighted student~~  
20 ~~does not include the amount attributable to the increase in the~~  
21 ~~guaranteed level made by H.B. No. 3343, Acts of the 77th~~  
22 ~~Legislature, Regular Session, 2001].~~

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

26 (a-2) A school district is not required to pay the minimum  
27 salary determined under Subsection (a) to an educator who does not

1 hold a lifetime or standard certificate and who holds a  
 2 probationary, temporary, or emergency educator certificate.

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

5	Years	0	1	2
6	Experience			
7	<u>Monthly Salary</u>	<u>\$2,699</u> [ <del>-.5656</del> ]	<u>\$2,756</u> [ <del>-.5790</del> ]	<u>\$2,814</u> [ <del>-.5924</del> ]
8	[ <del>Factor</del> ]			
9	Years	3	4	5
10	Experience			
11	<u>Monthly Salary</u>	<u>\$2,871</u> [ <del>-.6058</del> ]	<u>\$2,992</u> [ <del>-.6340</del> ]	<u>\$3,113</u> [ <del>-.6623</del> ]
12	[ <del>Factor</del> ]			
13	Years	6	7	8
14	Experience			
15	<u>Monthly Salary</u>	<u>\$3,234</u> [ <del>-.6906</del> ]	<u>\$3,347</u> [ <del>-.7168</del> ]	<u>\$3,453</u> [ <del>-.7416</del> ]
16	[ <del>Factor</del> ]			
17	Years	9	10	11
18	Experience			
19	<u>Monthly Salary</u>	<u>\$3,554</u> [ <del>-.7651</del> ]	<u>\$3,648</u> [ <del>-.7872</del> ]	<u>\$3,739</u> [ <del>-.8082</del> ]
20	[ <del>Factor</del> ]			
21	Years	12	13	14
22	Experience			
23	<u>Monthly Salary</u>	<u>\$3,824</u> [ <del>-.8281</del> ]	<u>\$3,903</u> [ <del>-.8467</del> ]	<u>\$3,980</u> [ <del>-.8645</del> ]
24	[ <del>Factor</del> ]			
25	Years	15	16	17
26	Experience			
27	<u>Monthly Salary</u>	<u>\$4,051</u> [ <del>-.8811</del> ]	<u>\$4,119</u> [ <del>-.8970</del> ]	<u>\$4,183</u> [ <del>-.9119</del> ]

1	<del>[Factor]</del>			
2	Years	18	19	20 and over
3	Experience			
4	<u>Monthly Salary</u>	<u>\$4,243</u> [ <del>-.9260</del> ]	<u>\$4,301</u> [ <del>-.9394</del> ]	<u>\$4,355</u> [ <del>-.9520</del> ]
5	<del>[Factor]</del>			

6        (c-1) Subsection (c) applies beginning with the 2006-2007  
7 school year. For the 2005-2006 school year, the minimum monthly  
8 salary under this section is as follows:

9	<u>Years</u>	<u>0</u>	<u>1</u>	<u>2</u>
10	<u>Experience</u>			
11	<u>Monthly Salary</u>	<u>\$2,574</u>	<u>\$2,631</u>	<u>\$2,689</u>
12	<u>Years</u>	<u>3</u>	<u>4</u>	<u>5</u>
13	<u>Experience</u>			
14	<u>Monthly Salary</u>	<u>\$2,746</u>	<u>\$2,867</u>	<u>\$2,988</u>
15	<u>Years</u>	<u>6</u>	<u>7</u>	<u>8</u>
16	<u>Experience</u>			
17	<u>Monthly Salary</u>	<u>\$3,109</u>	<u>\$3,222</u>	<u>\$3,328</u>
18	<u>Years</u>	<u>9</u>	<u>10</u>	<u>11</u>
19	<u>Experience</u>			
20	<u>Monthly Salary</u>	<u>\$3,429</u>	<u>\$3,523</u>	<u>\$3,614</u>
21	<u>Years</u>	<u>12</u>	<u>13</u>	<u>14</u>
22	<u>Experience</u>			
23	<u>Monthly Salary</u>	<u>\$3,699</u>	<u>\$3,778</u>	<u>\$3,855</u>
24	<u>Years</u>	<u>15</u>	<u>16</u>	<u>17</u>
25	<u>Experience</u>			
26	<u>Monthly Salary</u>	<u>\$3,926</u>	<u>\$3,994</u>	<u>\$4,058</u>

1	<u>Years</u>	<u>18</u>	<u>19</u>	<u>20 and over</u>
2	<u>Experience</u>			
3	<u>Monthly Salary</u>	<u>\$4,118</u>	<u>\$4,176</u>	<u>\$4,230</u>

4 (c-2) Notwithstanding Subsection (a), for the 2005-2006  
5 school year, a classroom teacher, full-time librarian, full-time  
6 counselor certified under Subchapter B, or full-time school nurse  
7 is entitled to a monthly salary that is at least equal to the sum of:

8 (1) the monthly salary the employee would have  
9 received for the 2005-2006 school year under the district's salary  
10 schedule for the 2004-2005 school year, if that schedule had been in  
11 effect for the 2005-2006 school year, including any local  
12 supplement and any money representing a career ladder supplement  
13 the employee would have received in the 2005-2006 school year; and

14 (2) \$150.

15 (c-3) Notwithstanding Subsection (a), for the 2006-2007  
16 school year, a classroom teacher, full-time librarian, full-time  
17 counselor certified under Subchapter B, or full-time school nurse  
18 is entitled to a monthly salary that is at least equal to the sum of:

19 (1) the monthly salary the employee would have  
20 received for the 2006-2007 school year under the district's salary  
21 schedule for the 2004-2005 school year, if that schedule had been in  
22 effect for the 2006-2007 school year, including any local  
23 supplement and any money representing a career ladder supplement  
24 the employee would have received in the 2006-2007 school year; and

25 (2) \$275.

26 (c-4) A school district that paid employees an additional  
27 amount during each of the 2003-2004 and 2004-2005 school years to

1 compensate for reductions made in the health coverage or  
2 compensation supplementation provided by former Article 3.50-8,  
3 Insurance Code, may apply to the commissioner for authority to  
4 provide a lesser average compensation increase than the amount  
5 otherwise required by Subsection (c-2) or (c-3), to the extent  
6 equitable considering the additional amount provided by the  
7 district during the 2003-2004 and 2004-2005 school years. A  
8 determination by the commissioner under this subsection is final  
9 and may not be appealed. The commissioner may adopt rules to  
10 implement this subsection.

11 (c-5) Subsections (c-1), (c-2), (c-3), (c-4), and this  
12 subsection expire September 1, 2007.

13 (d) A classroom teacher, full-time librarian, full-time  
14 counselor certified under Subchapter B, or full-time school nurse  
15 employed by a school district in the 2006-2007 [~~2000-2001~~] school  
16 year is, as long as the employee is employed by the same district,  
17 entitled to a salary that is at least equal to the salary the  
18 employee received for the 2006-2007 [~~2000-2001~~] school year.

19 SECTION 2A.11. Subchapter I, Chapter 21, Education Code, is  
20 amended by adding Section 21.4021 to read as follows:

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

27 (b) In determining a teacher's compensation, a school

1 district may and should consider:

2 (1) the teacher's ability to improve the academic  
3 achievement of the teacher's students;

4 (2) the grade level or subject the teacher is assigned  
5 to teach;

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

7 (4) the assignment of the teacher, including whether  
8 the teacher is assigned to a subject or school that is difficult to  
9 staff.

10 (c) A school district can and should provide additional  
11 compensation to a teacher who substantially contributes to  
12 improvement in student achievement.

13 SECTION 2A.12. Effective September 1, 2006, Subchapter I,  
14 Chapter 21, Education Code, is amended by adding Section 21.4031 to  
15 read as follows:

16 Sec. 21.4031. SALARY SUPPLEMENT FOR CERTAIN  
17 RETIREMENT-ELIGIBLE CLASSROOM TEACHERS. (a) The amounts specified  
18 by this section are in addition to amounts to which a classroom  
19 teacher is entitled under Section 21.402.

20 (b) A classroom teacher, other than an employed retiree, is  
21 entitled to an annual salary supplement equal to:

22 (1) \$1,000 for a year in which the sum of the teacher's  
23 age and years of service credit in the Teacher Retirement System of  
24 Texas equals at least 80 but less than 85;

25 (2) \$2,000 for a year in which the sum of the teacher's  
26 age and years of service credit in the Teacher Retirement System of  
27 Texas equals at least 85 but less than 90;

1           (3) \$3,000 for a year in which the sum of the teacher's  
2 age and years of service credit in the Teacher Retirement System of  
3 Texas equals at least 90 but less than 95; and

4           (4) \$4,000 for a year in which the sum of the teacher's  
5 age and years of service credit in the Teacher Retirement System of  
6 Texas equals at least 95.

7           (c) If a person is entitled to a salary supplement under a  
8 provision of Subsection (b) for only part of a year, the amount of  
9 the salary supplement shall be prorated accordingly.

10           (d) The Teacher Retirement System of Texas, at the request  
11 of the agency, may release information to the agency about a member  
12 of the retirement system or a retiree that the executive director of  
13 the retirement system finds is necessary to determine a person's  
14 eligibility for a salary supplement under this section. The  
15 information remains confidential after the information is released  
16 to the agency as authorized by this section. The agency may  
17 disclose whether an employee is entitled to a supplement and the  
18 amount of the supplement to which the employee is entitled but may  
19 not release other information provided by the retirement system.

20           (e) A school district is entitled to state funds in an  
21 amount equal to the sum of the salary supplements to which classroom  
22 teachers employed by the district are entitled under this section.  
23 Funding a school district receives under this section is in  
24 addition to any funding the district receives under Chapter 42. The  
25 commissioner shall distribute funds under this section with the  
26 Foundation School Program payment to which the district is entitled  
27 as soon as practicable after the end of the school year as

1 determined by the commissioner. A district to which Chapter 41  
2 applies is entitled to funding under this section. The  
3 commissioner shall determine the timing of the distribution of  
4 funds to a district that does not receive Foundation School Program  
5 payments.

6 SECTION 2A.13. Subchapter J, Chapter 21, Education Code, is  
7 amended by adding Section 21.458 to read as follows:

8 Sec. 21.458. MENTORS. (a) Each school district may assign  
9 a mentor teacher to each classroom teacher who has less than two  
10 years of teaching experience. A teacher assigned as a mentor must:

- 11 (1) teach in the same school;  
12 (2) to the extent practicable, teach the same subject  
13 or grade level, as applicable; and  
14 (3) meet the qualifications prescribed by  
15 commissioner rules adopted under Subsection (b).

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

- 21 (1) complete a research-based mentor and induction  
22 training program approved by the commissioner;  
23 (2) complete a mentor training program provided by the  
24 district; and  
25 (3) have at least three complete years of teaching  
26 experience with a superior record of assisting students, as a  
27 whole, in achieving growth in student performance.

1        (c) From the funds appropriated to the agency for purposes  
2 of this section, the commissioner shall adopt rules and provide  
3 funding to school districts that assign mentor teachers under this  
4 section. Funding provided to districts under this section may be  
5 used only for providing:

6            (1) mentor teacher stipends;

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

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

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

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

16            SUBCHAPTER N. EDUCATOR EXCELLENCE INCENTIVE PROGRAM

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

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

23        (b) The commissioner shall award grants in an amount not to  
24 exceed a total of \$50 million per school year to school districts  
25 selected by the commissioner in accordance with an application  
26 process established by the commissioner. Districts shall use  
27 grants awarded under this section to provide incentive payments to

1 employees in accordance with this subchapter.

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

3 (1) encourage classroom teachers to:

4 (A) teach at campuses with high percentages of  
5 educationally disadvantaged students;

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

8 (C) receive appropriate certification to teach  
9 in a curriculum subject area in which the district is experiencing a  
10 shortage of qualified teachers; or

11 (2) further the goals of any other locally designed  
12 performance incentive program intended to improve student  
13 achievement.

14 (d) The commissioner shall adopt rules necessary to  
15 implement this subchapter, including rules establishing criteria  
16 for awarding grants under Subsection (b). In adopting rules, the  
17 commissioner shall encourage local flexibility in designing  
18 incentive plans that promote student achievement.

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

20 (a) A school district shall develop a local incentive plan for  
21 rewarding successful incremental growth in student achievement in  
22 the district and submit the plan to the commissioner for approval.

23 (b) A local incentive plan must be designed to reward  
24 individuals, campuses, or organizational units such as grade levels  
25 at elementary schools or academic departments at high schools.

26 (c) A local incentive plan must provide for incentive  
27 payments to classroom teachers and may provide for incentive

1 payments to other employees.

2 (d) The primary criteria for making incentive payments to  
3 employees under a local incentive plan must be based on objective  
4 measures of student achievement, including a measure of incremental  
5 growth in student achievement under Section 39.034, and the plan  
6 must provide for incentive payments to be awarded on the basis of  
7 high achievement, incremental growth in achievement, or both. A  
8 local incentive plan may also consider other indicators of employee  
9 performance, such as teacher evaluations conducted by principals or  
10 parents.

11 (e) A local incentive plan must:

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

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

16 (f) The campus-level planning and decision-making committee  
17 shall determine the appropriate distribution of funds received by a  
18 campus under this subchapter.

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

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

25 Sec. 21.654. DECISION BY COMMISSIONER OR COMMITTEE. A  
26 decision by the commissioner or the district-level planning and  
27 decision-making committee in approving a local incentive plan under

1 this subchapter or by a campus-level planning and decision-making  
2 committee in providing an incentive payment under a local incentive  
3 plan approved under this subchapter is final and may not be  
4 appealed.

5 SECTION 2A.15. Subchapter D, Chapter 22, Education Code, as  
6 added by S.B. No. 1691 and S.B. No. 1863, Acts of the 79th  
7 Legislature, Regular Session, 2005, is reenacted and amended to  
8 read as follows:

9 SUBCHAPTER D. HEALTH CARE [~~COMPENSATION~~] SUPPLEMENTATION

10 Sec. 22.101. DEFINITIONS. In this subchapter:

11 (1) "Cafeteria plan" means a plan as defined and  
12 authorized by Section 125, Internal Revenue Code of 1986.

13 (2) "Employee" means an active, contributing member of  
14 the Teacher Retirement System of Texas who:

15 (A) is employed by a district, other educational  
16 district whose employees are members of the Teacher Retirement  
17 System of Texas, participating charter school, or regional  
18 education service center;

19 (B) is not a retiree eligible for coverage under  
20 the program established under Chapter 1575, Insurance Code;

21 (C) is not eligible for coverage by a group  
22 insurance program under Chapter 1551 or 1601, Insurance Code; and

23 (D) is not an individual performing personal  
24 services for a district, other educational district that is a  
25 member of the Teacher Retirement System of Texas, participating  
26 charter school, or regional education service center as an  
27 independent contractor.

1           (3) "Participating charter school" means a public  
2 charter district [~~an open-enrollment charter school~~] established  
3 under [~~Subchapter D,~~] Chapter 11A [~~12,~~] that participates in the  
4 program established under Chapter 1579, Insurance Code.

5           (4) "Regional education service center" means a  
6 regional education service center established under Chapter 8.

7           Sec. 22.102. AUTHORITY TO ADOPT RULES; OTHER AUTHORITY.

8           (a) The agency may adopt rules to implement this subchapter.

9           (b) The agency may enter into interagency contracts with any  
10 other agency of this state for the purpose of assistance in  
11 implementing this subchapter.

12           Sec. 22.103. DESIGNATION OF COMPENSATION AS HEALTH CARE  
13 SUPPLEMENTATION. (a) An employee of a school [~~ELIGIBILITY,~~  
14 ~~WAITING PERIOD.~~ ~~A person is not eligible for a monthly distribution~~  
15 ~~under this subchapter before the 91st day after the first day the~~  
16 ~~person becomes an employee.~~

17           [~~Sec. 22.104. DISTRIBUTION BY AGENCY. Subject to the~~  
18 ~~availability of funds, each month the agency shall deliver to each~~  
19 ~~district, [including a district that is ineligible for state aid~~  
20 ~~under Chapter 42, each] other educational district that is a member~~  
21 ~~of the Teacher Retirement System of Texas, [each] participating~~  
22 ~~charter school, or [and each] regional education service center~~ may  
23 elect to designate a portion of the employee's compensation to be  
24 used as health care supplementation under this subchapter.

25           (b) The amount designated under this section may not exceed  
26 the amount permitted under applicable federal law.

27           (c) This section does not apply to:

1           (1) an employee who is not covered by a cafeteria plan  
2 or who is not eligible to pay health care premiums through a premium  
3 conversion plan; or

4           (2) an administrator, as defined by the trustee,  
5 employed by a school district, another educational district, a  
6 participating charter school, or a regional education service  
7 center [~~state funds in an amount, as determined by the agency, equal~~  
8 ~~to the product of the number of eligible employees employed by the~~  
9 ~~district, school, or service center multiplied by the amount~~  
10 ~~specified in the General Appropriations Act for purposes of this~~  
11 ~~subchapter and divided by 12. The agency shall distribute funding~~  
12 ~~to only one entity for employees who are employed by more than one~~  
13 ~~entity listed in this section].~~

14           Sec. 22.104 [~~22.105~~]. FUNDS HELD IN TRUST. All funds  
15 received by a district, other educational district, participating  
16 charter school, or regional education service center under this  
17 subchapter are held in trust for the benefit of the employees on  
18 whose behalf the district, school, or service center received the  
19 funds.

20           Sec. 22.105. WRITTEN ELECTION REQUIRED. Each school year,  
21 an active employee must elect in writing whether to designate a  
22 portion of the employee's compensation to be used as health care  
23 supplementation under this subchapter.

24           Sec. 22.106. [~~RECOVERY OF DISTRIBUTIONS. The agency is~~  
25 ~~entitled to recover from a district, other educational district,~~  
26 ~~participating charter school, or regional education service center~~  
27 ~~any amount distributed under this subchapter to which the district,~~

1 ~~school, or service center was not entitled.~~

2 ~~[Sec. 22.107. DETERMINATION BY AGENCY FINAL. A~~  
3 ~~determination by the agency under this subchapter is final and may~~  
4 ~~not be appealed.~~

5 ~~[Sec. 22.108. DISTRIBUTION BY SCHOOL. Each month, each~~  
6 ~~district, other educational district that is a member of the~~  
7 ~~Teacher Retirement System of Texas, participating charter school,~~  
8 ~~and regional education service center must distribute to its~~  
9 ~~eligible employees the funding received under this subchapter. To~~  
10 ~~receive the monthly distribution, an individual must meet the~~  
11 ~~definition of an employee under Section 22.101 for that month.~~

12 ~~[Sec. 22.109.] USE OF DESIGNATED [SUPPLEMENTAL]~~  
13 ~~COMPENSATION. An employee may use compensation designated for~~  
14 ~~health care supplementation [a monthly distribution received]~~  
15 ~~under this subchapter for any employee benefit, including~~  
16 ~~depositing the amount of the distribution into a cafeteria plan, if~~  
17 ~~the employee is enrolled in a cafeteria plan, or using the~~  
18 ~~designated amount [of the distribution] for health care premiums~~  
19 ~~through a premium conversion plan. [The employee may take the~~  
20 ~~amount of the distribution as supplemental compensation.~~

21 ~~[Sec. 22.110. SUPPLEMENTAL COMPENSATION. An amount~~  
22 ~~distributed to an employee under this subchapter must be in~~  
23 ~~addition to the rate of compensation that:~~

24 ~~[(1) the district, other educational district,~~  
25 ~~participating charter school, or regional education service center~~  
26 ~~paid the employee in the preceding school year; or~~

27 ~~[(2) the district, school, or service center would~~

1 ~~have paid the employee in the preceding school year if the employee~~  
2 ~~had been employed by the district, school, or service center in the~~  
3 ~~same capacity in the preceding school year.]~~

4 SECTION 2A.16. Subchapter A, Chapter 29, Education Code, is  
5 amended by adding Section 29.019 to read as follows:

6 Sec. 29.019. SPEECH-LANGUAGE INSTRUCTION: ASSISTANTS. (a)  
7 This section applies to an assistant who:

8 (1) has at least three years of experience in speech  
9 therapy, as determined by the State Board of Examiners for  
10 Speech-Language Pathology and Audiology; and

11 (2) is supervised by a licensed speech-language  
12 pathologist.

13 (b) An assistant described by Subsection (a) may attend, as  
14 related services personnel, a student admission, review, and  
15 dismissal committee meeting if the meeting involves a student for  
16 whom the assistant provides services. If an assistant attends a  
17 meeting as provided by this section, the supervising  
18 speech-language pathologist is not required to attend the meeting,  
19 except as provided by Subsection (c).

20 (c) A supervising speech-language pathologist must attend a  
21 committee meeting under Subsection (b):

22 (1) if the purpose of the committee meeting is to  
23 develop a student's initial individualized education program under  
24 Section 29.005; or

25 (2) if the purpose of the committee meeting is to  
26 consider the student's dismissal, unless the supervising  
27 speech-language pathologist has submitted the pathologist's

1 recommendation in writing on or before the date of the meeting.

2 (d) This section:

3 (1) does not create, increase, decrease, or otherwise  
4 affect a supervising speech-language pathologist's liability for  
5 actions taken by an assistant; and

6 (2) is not a waiver of a school district's sovereign  
7 immunity.

8 SECTION 2A.17. (a) Not later than January 1, 2006, the  
9 commissioner of education shall review the rules adopted under  
10 Section 21.044, Education Code, relating to educator training  
11 requirements and revise those rules as necessary to ensure that the  
12 training requirements are sufficient to produce educators capable  
13 of:

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

17 (2) complying with certification standards in this  
18 state; and

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

21 (b) In conducting the review required by Subsection (a) of  
22 this section, the commissioner of education shall give specific  
23 attention to the degree to which educator training requirements  
24 prepare educators to serve students of limited English proficiency  
25 and students with learning disabilities.

26 SECTION 2A.18. Sections 21.104, 21.251, 21.301, and 21.303,  
27 Education Code, as amended by this Act, and Sections 21.1041 and

1 21.2111, Education Code, as added by this Act, apply only to a  
2 discharge under a probationary or term contract for which written  
3 notice of the proposed discharge is given to a teacher on or after  
4 the effective date of this Act. A discharge under a probationary or  
5 term contract for which written notice of the proposed discharge is  
6 given to a teacher before the effective date of this Act is governed  
7 by the law in effect when the notice is given, and the former law is  
8 continued in effect for that purpose.

9 SECTION 2A.19. Section 21.402(a-1), Education Code, as  
10 added by this Act, does not apply to the salary of an educator  
11 employed under a contract entered into before the effective date of  
12 this Act.

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

17 SECTION 2A.21. Subchapter N, Chapter 21, Education Code, as  
18 added by this Act, applies beginning with the 2006-2007 school  
19 year.

20 PART B. STATE AND REGIONAL GOVERNANCE

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

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

26 (b) The commissioner of education and the commissioner of  
27 higher education may establish not more than three centers for

1 education research for conducting research described by  
2 Subsections (e) and (f).

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

4 (1) the Texas Education Agency;

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

6 (3) a public junior college, public senior college or  
7 university, or public state college, as those terms are defined by  
8 Section 61.003.

9 (d) A center may be operated under a memorandum of  
10 understanding between the commissioner of education, the  
11 commissioner of higher education, and the governing board of an  
12 educational institution described by Subsection (c)(3). The  
13 memorandum of understanding must require the commissioner of  
14 education, or a person designated by the commissioner, and the  
15 commissioner of higher education, or a person designated by the  
16 commissioner, to provide direct, joint supervision of the center  
17 under this section.

18 (e) A center shall conduct research for the benefit of  
19 education in this state, including research relating to the impact  
20 of state and federal education programs, the performance of  
21 educator preparation programs, public school finance, and the best  
22 practices of school districts with regard to classroom instruction,  
23 bilingual education programs, special language programs, and  
24 business practices.

25 (f) The commissioner of education and the commissioner of  
26 higher education:

27 (1) under the memorandum of understanding described by

1 Subsection (d), may require a center to conduct certain research  
2 projects considered of particular importance to the state, as  
3 determined by the commissioners; and

4 (2) not later than the 45th day before the date a  
5 research project required to be conducted under this subsection is  
6 scheduled to begin, shall notify the governor, the Legislative  
7 Budget Board, and the governing body of the educational institution  
8 in which the center is established that the research project is  
9 required.

10 (g) In conducting research under this section, a center:

11 (1) may use data on student performance, including  
12 data that is confidential under the Family Educational Rights and  
13 Privacy Act of 1974 (20 U.S.C. Section 1232g), the center has  
14 collected from the Texas Education Agency, the Texas Higher  
15 Education Coordinating Board, the Educators' Professional  
16 Practices Board, any public or private institution of higher  
17 education, and any school district; and

18 (2) shall comply with rules adopted by the  
19 commissioner of education and the commissioner of higher education  
20 to protect the confidentiality of student information, including  
21 rules establishing procedures to ensure that confidential student  
22 information is not duplicated or removed from a center in an  
23 unauthorized manner.

24 (h) The commissioner of education and the commissioner of  
25 higher education may:

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

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

3           (i) This section does not authorize the disclosure of  
4 student information that may not be disclosed under the Family  
5 Educational Rights and Privacy Act of 1974 (20 U.S.C. Section  
6 1232g).

7           (j) The commissioner of education and the commissioner of  
8 higher education shall adopt rules as necessary to implement this  
9 section.

10           (k) In implementing this section, the commissioner of  
11 education may use funds appropriated to the agency and available  
12 for that purpose, including foundation school program funds.

13           SECTION 2B.02. Section 7.004, Education Code, as amended by  
14 H.B. No. 1116, Acts of the 79th Legislature, Regular Session, 2005,  
15 is amended to read as follows:

16           Sec. 7.004. SUNSET PROVISION. (a) The Texas Education  
17 Agency is subject to Chapter 325, Government Code (Texas Sunset  
18 Act). Unless continued in existence as provided by that chapter,  
19 the agency is abolished September 1, 2017 [~~2007. In the review of~~  
20 ~~the agency by the Sunset Advisory Commission, as required by this~~  
21 ~~section, the sunset commission shall limit its review to the~~  
22 ~~appropriateness of recommendations made by the sunset commission to~~  
23 ~~the 79th Legislature. In the Sunset Advisory Commission's report~~  
24 ~~to the 80th Legislature, the sunset commission may include any~~  
25 ~~recommendations it considers appropriate].~~

26           (b) A review conducted under Chapter 325, Government Code  
27 (Texas Sunset Act), in accordance with this section must include a

1 review of the regional education service centers under Chapter 8.

2 SECTION 2B.03. Subchapter A, Chapter 7, Education Code, is  
3 amended by adding Section 7.007 to read as follows:

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

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

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

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

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

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

26 (d) The commissioner's rules must ensure that the Public  
27 Education Information Management System links student performance

1 data to other related information for purposes of efficient and  
2 effective allocation of school resources.

3 SECTION 2B.04. Subchapter A, Chapter 7, Education Code, is  
4 amended by adding Section 7.008 to read as follows:

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

8 (b) Each school district, public charter district, and  
9 institution of higher education shall participate in an electronic  
10 student records system that satisfies standards approved by the  
11 commissioner of education and the commissioner of higher education.

12 (c) The electronic student records system must permit an  
13 authorized state or district official or an authorized  
14 representative of an institution of higher education to  
15 electronically transfer to and from an educational institution in  
16 which the student is enrolled and retrieve student transcripts,  
17 including information concerning a student's:

- 18 (1) course or grade completion;  
19 (2) teachers of record;  
20 (3) assessment instrument results; and  
21 (4) receipt of special education services, including  
22 placement in a special education program and the individualized  
23 education program developed.

24 (d) The commissioner of education or the commissioner of  
25 higher education may solicit and accept grant funds to maintain the  
26 electronic student records system and to make the system available  
27 to school districts, public charter districts, and institutions of

1 higher education.

2 (e) A private or independent institution of higher  
3 education, as defined by Section 61.003, may participate in the  
4 electronic student records system under this section. If a private  
5 or independent institution of higher education elects to  
6 participate, the institution must provide the funding to  
7 participate in the system.

8 (f) Any person involved in the transfer and retrieval of  
9 student information under this section is subject to any state or  
10 federal law governing the release of or providing access to any  
11 confidential information to the same extent as the educational  
12 institution from which the data is collected. A person may not  
13 release or distribute the data to any other person in a form that  
14 contains confidential information.

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

18 SECTION 2B.05. Subchapter B, Chapter 7, Education Code, is  
19 amended by adding Section 7.0211 to read as follows:

20 Sec. 7.0211. GIFTS, GRANTS, OR DONATIONS. The agency may  
21 receive gifts, grants, or donations from any public or private  
22 source to perform any educational function the agency is authorized  
23 to perform by law.

24 SECTION 2B.06. Section 7.028, Education Code, as renumbered  
25 by Section 23.001(9), H.B. No. 2018, Acts of the 79th Legislature,  
26 Regular Session, 2005, is amended to read as follows:

27 Sec. 7.028. LIMITATION ON COMPLIANCE MONITORING. (a)

1 Except as provided by Section 29.001(5), 29.010(a), [~~39.074,~~] or  
2 39.075, the agency may monitor compliance with requirements  
3 applicable to a process or program provided by a school district,  
4 campus, program, or school granted charters under Chapter 11A or  
5 12, including the process described by Subchapter F, Chapter 11, or  
6 a program described by Subchapter B, C, D, E, F, H, or I, Chapter 29,  
7 Subchapter A, Chapter 37, or Section 38.003, and the use of funds  
8 provided for such a program under Subchapter C, Chapter 42, only as  
9 necessary to ensure:

10 (1) compliance with federal law and regulations;

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

13 (3) data integrity for purposes of:

14 (A) the Public Education Information Management  
15 System (PEIMS); and

16 (B) accountability under Chapter 39.

17 (b) The board of trustees of a school district or the  
18 governing body of a public charter district [~~an open-enrollment~~  
19 ~~charter school~~] has primary responsibility for ensuring that the  
20 district or school complies with all applicable requirements of  
21 state educational programs.

22 SECTION 2B.07. Subchapter B, Chapter 7, Education Code, is  
23 amended by adding Section 7.033 to read as follows:

24 Sec. 7.033. COMPREHENSIVE MONITORING SYSTEM. To the extent  
25 permissible under Section 7.028, the agency shall develop and  
26 implement a comprehensive, integrated monitoring system for  
27 monitoring school district and charter school overall performance

1 under and compliance with federal and state education laws. The  
2 system must incorporate performance and compliance information  
3 collected by various agency divisions for each school district and  
4 charter school, including information relating to:

- 5 (1) data integrity;
- 6 (2) the performance of district or school programs;
- 7 (3) financial accountability;
- 8 (4) academic accountability;
- 9 (5) previous history of compliance;
- 10 (6) complaints issues; and
- 11 (7) governance issues.

12 SECTION 2B.08. Sections 7.057(a) and (d), Education Code,  
13 are amended to read as follows:

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

- 17 (1) the school laws of this state; or
- 18 (2) actions or decisions of any school district board  
19 of trustees that violate:

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

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

1 the manner provided by law for civil suits. The petition must state  
2 the action or decision from which the appeal is taken. At trial,  
3 the court shall determine all issues of law and fact, except as  
4 provided by Section 33.081(g).

5 SECTION 2B.09. Subchapter C, Chapter 7, Education Code, is  
6 amended by adding Section 7.0571 to read as follows:

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

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

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

18 SECTION 2B.095. Subchapter C, Chapter 7, Education Code, is  
19 amended by adding Section 7.061 to read as follows:

20 Sec. 7.061. SUBPOENA. (a) The commissioner may issue a  
21 subpoena to compel the attendance and testimony of a witness or the  
22 production of materials relevant to an audit or investigation under  
23 this title.

24 (b) A subpoena may be issued throughout the state and may be  
25 served by any person designated by the commissioner.

26 (c) If a person fails to comply with a subpoena issued under  
27 this section, the commissioner, acting through the attorney

1 general, may file suit to enforce the subpoena in a district court  
2 in Travis County or in the county in which the audit or  
3 investigation is conducted. The court shall order compliance with  
4 the subpoena if the court finds that good cause exists to issue the  
5 subpoena.

6 SECTION 2B.10. Chapter 7, Education Code, is amended by  
7 adding Subchapter E to read as follows:

8 SUBCHAPTER E. PERFORMANCE-BASED GRANT SYSTEM

9 Sec. 7.151. PERFORMANCE-BASED GRANT SYSTEM. (a) The  
10 agency shall implement a comprehensive performance-based grant  
11 system to collect and report grant performance and spending  
12 information and to use that information in making future grants.

13 (b) The grant system must:

14 (1) connect grant activities and funding to student  
15 academic performance; and

16 (2) provide for efficient grant application and  
17 reporting procedures for grant programs administered by the agency.

18 Sec. 7.152. GRANT PROGRAM PROCEDURES. The agency shall  
19 ensure that:

20 (1) the mission, purpose, and objectives of each  
21 agency grant program support student academic performance or  
22 another public education mission, objective, or goal specified  
23 under Sections 4.001 and 4.002;

24 (2) each agency grant program coordinates with other  
25 grant programs administered by the agency;

26 (3) grant programs with similar objectives have common  
27 performance measures; and

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

5           Sec. 7.153. GRANT ELIGIBILITY NOTIFICATION. The agency may  
6 use existing data to identify and notify an eligible school  
7 district or charter school of the opportunity to apply for a  
8 state-funded discretionary grant.

9           Sec. 7.154. APPLICATION FOR STATE-FUNDED FORMULA GRANTS.  
10 The agency shall develop one or more consolidated applications to  
11 be used by school districts and charter schools in applying for any  
12 state-funded formula grant administered by the agency.

13           Sec. 7.155. AVAILABILITY OF GRANT INFORMATION. The agency  
14 shall ensure that information relating to the grant system is  
15 available to the legislature and the public.

16           Sec. 7.156. BEST PRACTICES GRANT INFORMATION. (a) The  
17 agency, in coordination with regional education service centers,  
18 shall use data relating to grant programs, including grant spending  
19 and performance information, to identify successful grant  
20 programs. Based on the identification of successful grant  
21 programs, each regional education service center shall provide  
22 information concerning those programs to the school districts in  
23 the service center's region.

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

26           Sec. 7.157. DEVELOPMENT OF GRANT SYSTEM. (a) In developing  
27 the performance-based grant system, the agency shall:

1           (1) identify each area of data collected for grant  
2 programs and the method in which the agency collects the data;

3           (2) determine whether grant data that a school  
4 district or charter school is required to collect is useful and  
5 supports:

6                   (A) a grant program's objectives; and

7                   (B) the goals for academic performance and  
8 accountability or another public education mission, objective, or  
9 goal;

10           (3) determine whether grant data is analyzed and  
11 disseminated efficiently; and

12           (4) review the agency's policies, procedures, and  
13 reporting requirements relating to grant programs administered by  
14 the agency to simplify and make more efficient the grant  
15 application, award, and reporting processes for school districts  
16 and charter schools.

17           (b) This section expires June 1, 2010.

18           Sec. 7.158. GRANT ADMINISTRATION DURING CERTAIN SCHOOL  
19 YEARS; STATUS REPORT. (a) Not later than January 1, 2007, the  
20 agency shall provide the legislature with a status report  
21 concerning the agency's development of the grant system. The  
22 report may suggest any statutory changes needed to facilitate a  
23 full transition to a performance-based grant system.

24           (b) Beginning with the 2009-2010 school year, the agency  
25 shall make the performance-based grant system fully available to  
26 school districts and charter schools.

27           (c) This section expires June 1, 2010.

1 SECTION 2B.11. Subchapter A, Chapter 8, Education Code, is  
2 amended by adding Section 8.0031 to read as follows:

3 Sec. 8.0031. TRAINING FOR MEMBERS OF BOARD OF DIRECTORS.

4 (a) The commissioner shall adopt rules prescribing training for  
5 members of regional education service center boards of directors.

6 The training curriculum may include:

7 (1) an overview of this code and any rules adopted  
8 under this code;

9 (2) a review of recent state and federal education  
10 legislation, rules, and regulations;

11 (3) a review of the powers and duties of a regional  
12 education service center board of directors; and

13 (4) a review of any statewide or regional strategic  
14 planning applicable to regional education service centers.

15 (b) A member of a regional education service center board of  
16 directors must complete any training required by commissioner rule.

17 SECTION 2B.12. Sections 8.051(b), (c), and (d), Education  
18 Code, are amended to read as follows:

19 (b) Each regional education service center shall annually  
20 develop and submit to the commissioner for approval a plan for  
21 improvement. Each plan must include the purposes and description  
22 of the services the center will provide to:

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

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

27 (3) other campuses.

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

4 (1) best practices information as provided by Section  
5 7.010; and

6 (2) information concerning successful grant programs  
7 to school districts as provided by Section 7.156.

8 (d) Each regional education service center shall maintain  
9 core services for purchase by school districts and campuses. The  
10 core services are:

11 (1) training and assistance in teaching each subject  
12 area assessed under Section 39.023;

13 (2) training and assistance in providing each program  
14 that qualifies for a special education, accelerated program,  
15 transitional program, or gifted and talented student funding  
16 allotment under Subchapter C, Chapter 42 [~~Section 42.151, 42.152,~~  
17 ~~42.153, or 42.156~~];

18 (3) assistance specifically designed for a school  
19 district or campus rated academically unacceptable under Section  
20 39.072 [~~39.072(a) or a campus whose performance is considered~~  
21 ~~unacceptable based on the indicators adopted under Section 39.051~~];

22 (4) training and assistance to teachers,  
23 administrators, members of district boards of trustees, and members  
24 of site-based decision-making committees;

25 (5) assistance specifically designed for a school  
26 district that is considered out of compliance with state or federal  
27 special education requirements, based on the agency's most recent

1 compliance review of the district's special education programs; and

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

3 SECTION 2B.13. Section 8.102, Education Code, is amended to  
4 read as follows:

5 Sec. 8.102. DATA REPORTING. (a) Each regional education  
6 service center shall report audited or budgeted financial  
7 information and any other information requested by the commissioner  
8 for use in assessing the performance of the center. The  
9 commissioner shall develop a uniform system for regional education  
10 service centers to report audited financial data, to report  
11 information on the indicators adopted under Section 8.101, and to  
12 provide information on client satisfaction with services provided  
13 under Subchapter B.

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

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

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

20 SECTION 2B.14. Section 8.103, Education Code, is amended to  
21 read as follows:

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

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

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

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

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

5 (b) In the audit conducted under Subsection (a)(1), the  
6 commissioner shall verify that the regional education service  
7 center has identified each expenditure separately by purpose as  
8 educational, support, or administrative as required by Section  
9 8.102(b).

10 (c) The commissioner shall make the annual evaluation for a  
11 fiscal year available to the public not later than January 1  
12 following that fiscal year. The commissioner shall provide a copy  
13 of the annual evaluation to any person who submits a written request  
14 to the commissioner.

15 SECTION 2B.15. Subchapter A, Chapter 11, Education Code, is  
16 amended by adding Section 11.003 to read as follows:

17 Sec. 11.003. ADMINISTRATIVE EFFICIENCY. (a) Not later  
18 than December 1, 2005, the commissioner shall evaluate the  
19 feasibility of including a uniform indicator under Section  
20 39.202(b) that measures effective administrative management  
21 through the use of cooperative shared service arrangements. If the  
22 commissioner determines that the adoption of a uniform indicator  
23 described by this subsection is feasible, the commissioner by rule  
24 shall include the indicator in the financial accountability rating  
25 system under Subchapter I, Chapter 39, for school districts  
26 beginning with the 2006-2007 school year. This subsection expires  
27 September 1, 2007.

1       (b) Each regional education service center shall:

2           (1) notify each school district served by the center  
3 regarding the opportunities available through the center for  
4 cooperative shared service arrangements within the center's  
5 service area; and

6           (2) evaluate the need for cooperative shared service  
7 arrangements within the center's service area and consider  
8 expanding center-sponsored cooperative shared service  
9 arrangements.

10       (c) Each regional education service center shall assist a  
11 school district board of trustees in entering into an agreement  
12 with another district or political subdivision, a regional  
13 education service center, or an institution of higher education as  
14 defined by Section 61.003, for a cooperative shared service  
15 arrangement regarding administrative services, including  
16 transportation, food service, purchasing, and payroll functions.

17       (d) The commissioner may:

18           (1) adopt by rule reasonable incentives to encourage  
19 school districts and public charter districts to enter into  
20 agreements for a cooperative shared service arrangement; and

21           (2) require a district or a public charter district to  
22 enter into an agreement for a cooperative shared service  
23 arrangement if the commissioner determines that the financial  
24 management performance of the district is unsatisfactory.

25       SECTION 2B.16. Subchapter A, Chapter 29, Education Code, is  
26 amended by adding Sections 29.0162, 29.0163, and 29.0164 to read as  
27 follows:

1       Sec. 29.0162. INFORMATION REGARDING SPECIAL EDUCATION DUE  
2 PROCESS HEARINGS. (a) The agency shall make available to a parent,  
3 student, school district, attorney, or other interested person, and  
4 shall place on the agency's Internet website, comprehensive, easily  
5 understood information concerning the special education due  
6 process hearing process.

7       (b) The information described by Subsection (a) must  
8 include:

9           (1) a description of the steps in the due process  
10 hearing process;

11           (2) the text of any applicable administrative,  
12 procedural, or evidentiary rule;

13           (3) a description of any notice requirements;

14           (4) an explanation of options for alternative dispute  
15 resolution, including mediation;

16           (5) an explanation of a resolution session;

17           (6) answers to frequently asked questions; and

18           (7) other sources of information, including  
19 electronic sources of information, such as special education case  
20 law available on the Internet.

21       Sec. 29.0163. COLLECTION AND ANALYSIS OF INFORMATION  
22 CONCERNING SPECIAL EDUCATION HEARING OFFICERS. (a) The agency  
23 shall collect and at least biennially analyze any information,  
24 including complaint information, relating to the performance of a  
25 special education hearing officer for use in assessing:

26           (1) the effectiveness of the due process hearing  
27 process; and

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

3           (b) The agency shall use the information described by  
4 Subsection (a) in determining whether to renew a contract with a  
5 special education hearing officer.

6           Sec. 29.0164. SPECIAL EDUCATION HEARING OFFICER: CONFLICT  
7 OF INTEREST PROVISIONS. A special education hearing officer may  
8 not accept employment or compensation from a school district during  
9 a school year in which the hearing officer presides over a hearing  
10 to which the district is a party.

11           SECTION 2B.17. Section 37.008, Education Code, is amended  
12 by adding Subsection (o) to read as follows:

13           (o) For purposes of accountability under Chapter 39, a  
14 student placed in a disciplinary alternative education program is  
15 reported as if the student were enrolled at the student's assigned  
16 campus in the student's regularly assigned education program,  
17 including a special education program.

18           PART C. SCHOOL DISTRICT GOVERNANCE AND OTHER OPERATIONS

19           SECTION 2C.01. Subchapter A, Chapter 7, Education Code, is  
20 amended by adding Section 7.011 to read as follows:

21           Sec. 7.011. STATEWIDE FUNDS MANAGEMENT INFORMATION SYSTEM  
22 FOR AT-RISK STUDENT SERVICES. (a) In this section, "student at  
23 risk of dropping out of school" has the meaning described by Section  
24 29.081.

25           (b) The agency shall develop a management information  
26 system for funds awarded and allocated to school districts and  
27 public charter districts for the purpose of providing services to

1 students at risk of dropping out of school.

2 (c) The funds management information system must produce  
3 complete, accurate, and timely reports for agency officials and  
4 policy makers. The reports must provide information on funding for  
5 services for students at risk of dropping out of school, statewide  
6 and aggregated by school district, including the following  
7 information:

8 (1) the amount of an award;

9 (2) the beginning and ending period of a grant or  
10 award;

11 (3) expenditures related to an award; and

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

15 (d) The commissioner shall adopt rules as necessary to  
16 administer this section. The rules adopted under this subsection  
17 must ensure that:

18 (1) the funds management information system includes:

19 (A) the information described by Subsection (c)  
20 for all funding sources for services described by Section 29.092  
21 for students at risk of dropping out of school, excluding funding  
22 information relating to a compensatory, intensive, or accelerated  
23 instruction program under Section 29.081, a disciplinary  
24 alternative education program established under Section 37.008, or  
25 a program eligible under Title I of the Elementary and Secondary  
26 Education Act of 1965, as provided by Pub. L. No. 103-382; and

27 (B) all state funds and federal pass-through

1 funds targeting students at risk of dropping out of school;

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

4 (3) aggregate funding information is readily  
5 available to agency personnel and policy makers, including  
6 aggregate funding information relating to a compensatory,  
7 intensive, or accelerated instruction program under Section  
8 29.081, a disciplinary alternative education program established  
9 under Section 37.008, or a program eligible under Title I of the  
10 Elementary and Secondary Education Act of 1965, as provided by Pub.  
11 L. No. 103-382.

12 SECTION 2C.02. Subchapter C, Chapter 11, Education Code, is  
13 amended by adding Section 11.066 to read as follows:

14 Sec. 11.066. REMOVAL FOR FAILURE TO ATTEND BOARD MEETINGS.

15 (a) It is a ground for removal of a trustee of an independent school  
16 district that the trustee is absent from more than half of the  
17 regularly scheduled board of trustees meetings during a calendar  
18 year that the member is eligible to attend, unless the absence is  
19 excused by a majority vote of the board of trustees.

20 (b) If the superintendent of the school district has  
21 knowledge that a ground for removal under this section exists, the  
22 superintendent shall notify the board of trustees. On a  
23 determination that a potential ground for removal exists, the board  
24 shall notify the appropriate county or district attorney or the  
25 attorney general.

26 SECTION 2C.03. Section 11.163, Education Code, as amended  
27 by S.B. No. 387, Acts of the 79th Legislature, Regular Session,

1 2005, is amended by amending Subsections (c) and (d) to read as  
2 follows:

3 (c) The employment policy may:

4 (1) specify the terms of employment with the district;  
5 or

6 (2) delegate to the superintendent the authority to  
7 determine the terms of employment with the district [~~or~~

8 [~~(3) include a provision for providing each current  
9 district employee with an opportunity to participate in a process  
10 for transferring to another school in or position with the  
11 district~~].

12 (d) The employment policy must provide that not later than  
13 the 10th school day before the date on which a district fills a  
14 vacant position for which a certificate or license is required as  
15 provided by Section 21.003, other than a position that affects the  
16 safety and security of students as determined by the board of  
17 trustees, the district must provide to each current district  
18 employee:

19 (1) notice of the position by posting the position on:

20 (A) a bulletin board at:

21 (i) a place convenient to the public in the  
22 district's central administrative office; and

23 (ii) the central administrative office of  
24 each campus in the district during any time the office is open; or  
25 [~~and~~]

26 (B) the district's Internet website, if the  
27 district has a website; and

1           (2) a reasonable opportunity to apply for the  
2 position.

3           SECTION 2C.04. Subchapter E, Chapter 11, Education Code, is  
4 amended by adding Section 11.2011 to read as follows:

5           Sec. 11.2011. SUPERINTENDENTS: CONFLICT OF INTEREST  
6 PROVISIONS. (a) Except as provided by Subsection (b), a  
7 superintendent may not receive any financial benefit for personal  
8 services performed by the superintendent for any business entity  
9 that conducts business with or solicits business from the school  
10 district. Any financial benefit received by the superintendent for  
11 performing personal services for any other entity must be approved  
12 by the board of trustees on a case-by-case basis in an open meeting.

13           (b) Subsection (a) does not apply to personal services  
14 performed by a superintendent for an institution of higher  
15 education, as defined by Section 61.003, regional education service  
16 center, or professional association or organization if the  
17 superintendent provides notice to the board of trustees of the  
18 school district disclosing the agreement to perform the services.

19           SECTION 2C.05. Subchapter C, Chapter 29, Education Code, is  
20 amended by adding Sections 29.092, 29.093, and 29.0931 to read as  
21 follows:

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

26           (b) To enable school districts and public charter districts  
27 to provide supplemental programs and services for the benefit of

1 students at risk of dropping out of school, the commissioner each  
2 school year shall award funds to a school district or public charter  
3 district in accordance with a streamlined and simplified grant  
4 process developed by the commissioner. To the extent practicable,  
5 the grant process developed by the commissioner under this  
6 subsection must comply with Subchapter E, Chapter 7.

7 (c) The commissioner shall consolidate funding from the  
8 following currently funded programs and types of services,  
9 excluding early childhood care and education programs and  
10 accelerated reading or mathematics initiatives under Section  
11 28.006, 28.007, or 28.0211:

12 (1) an optional extended year program under Section  
13 29.082;

14 (2) a basic skills program for high school students  
15 under Section 29.086;

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

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

20 (d) The commissioner may include grants under Section 7.024  
21 as part of one or more consolidated grant application processes  
22 developed under this section. The commissioner shall ensure that a  
23 grant applied for under a consolidated application process under  
24 this section and awarded under Section 7.024 is used only for the  
25 purposes of Section 7.024.

26 (e) The commissioner may redistribute the funding of  
27 programs described under Subsection (c) as necessary to accomplish

1 the purpose of improving the achievement of students at risk of  
2 dropping out of school.

3 (f) A school district or public charter district that  
4 receives an award of funds under this section may use the funds to  
5 provide academic and support services to students at risk of  
6 dropping out of school, including:

7 (1) services designed to provide intensive academic  
8 instruction to increase student success and high school completion;

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

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

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

15 (5) any academic or support services for pregnant or  
16 parenting students, including basic instruction and health and life  
17 skills training and support for pregnant or parenting students;

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

20 (7) programs or services designed to promote the  
21 involvement of parents of students at risk of dropping out of  
22 school; and

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

27 (g) The agency shall make available research-based guidance

1 to school districts and public charter districts to enable  
2 successful implementation of the academic and support services  
3 described by Subsection (f) that assist students at risk of  
4 dropping out of school to succeed in school.

5 (h) Not later than November 1 of each year, a school  
6 district or public charter district may submit an application for  
7 funding for programs or services under this section. The school  
8 district or public charter district must include an assessment of  
9 needs for students at risk of dropping out of school, a  
10 comprehensive plan for providing services for those students based  
11 on the agency's research-based implementation guidance provided  
12 under Subsection (g), and a report of all sources of funding for  
13 providing services for those students. The commissioner shall  
14 distribute an award of funds in the form of a block grant not later  
15 than March 15 of each year.

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

25 (b) The cost-outcome methodology developed by the  
26 contractor under this section is subject to joint review and  
27 approval by the agency and the Legislative Budget Board. The

1 cost-outcome analysis at a minimum must consist of the following  
2 components:

3 (1) a methodology for assessing the  
4 cost-effectiveness of individual school districts and public  
5 charter districts in providing services to students at risk of  
6 dropping out of school;

7 (2) performance measures that can be used to assess  
8 the effectiveness of school districts and public charter districts  
9 in administering academic and social service programs for students  
10 at risk of dropping out of school;

11 (3) a methodology for evaluating best practices in  
12 providing effective services for students at risk of dropping out  
13 of school;

14 (4) a statistical methodology for:

15 (A) controlling for differences among individual  
16 school districts and public charter districts that are not related  
17 to funding streams included in the cost-outcome analysis; and

18 (B) disaggregating data by peer groups;

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

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

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

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

25 (A) report findings from the cost-outcome  
26 analysis to the lieutenant governor, the speaker of the house of  
27 representatives, and the presiding officer of the standing

1 committee of each house of the legislature with primary  
2 jurisdiction over public education, including data related to the  
3 feasibility of constructing a cost-effectiveness measure for  
4 school districts and public charter districts;

5 (B) make recommendations for the potential use of  
6 the data, including the best methods to disseminate the information  
7 to parents and school districts and public charter districts; and

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

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

15 (d) During the state fiscal biennium beginning September 1,  
16 2005, the commissioner shall retain an amount not to exceed  
17 \$500,000 from the total amount of funds allotted under the  
18 Foundation School Program to finance the comprehensive  
19 cost-outcome analysis and shall reduce the total amount of state  
20 funds allocated to each district from any source in the same manner  
21 described for a reduction in allotments under Section 42.313.

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

23 Sec. 29.0931. TEMPORARY PROVISION: COMMISSIONER'S  
24 COST-OUTCOME ANALYSIS. (a) The commissioner shall adopt a  
25 cost-outcome analysis methodology for use in assessing the  
26 effectiveness of school districts and public charter districts in  
27 providing services for students at risk of dropping out of school,

1 as described by Section 29.081. The commissioner shall use the  
2 adopted methodology until the commissioner determines that an  
3 alternate methodology approved by the agency and the Legislative  
4 Budget Board under Section 29.093(b) more accurately portrays the  
5 cost-effectiveness of the analyzed services.

6 (b) The methodology adopted by the commissioner must  
7 include the following components:

8 (1) a composite performance measure that combines key  
9 indicators of student performance, disaggregated for students at  
10 risk of dropping out of school;

11 (2) a format for reporting all state, federal, local,  
12 and private sources of funding and total expenditures for  
13 supplemental services for students at risk of dropping out of  
14 school, reported by school district, public charter district, and  
15 statewide; and

16 (3) a system for scoring and ranking school districts  
17 and public charter districts, including criteria for establishing  
18 school district and public charter district peer groups for  
19 comparison purposes.

20 (c) Based on the cost-outcome analysis methodology, the  
21 commissioner shall use the ranking system under Subsection (b)(3)  
22 to determine annually the level at which school districts and  
23 public charter districts are cost-effective in serving students at  
24 risk of dropping out of school.

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

27 (1) report the methodology and the results of the

1 cost-outcome analysis to the lieutenant governor, the speaker of  
2 the house of representatives, and the presiding officer of the  
3 standing committee of each house of the legislature with primary  
4 jurisdiction over public education; and

5 (2) make the report under Subdivision (1) available to  
6 the public.

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

10 SECTION 2C.06. Subchapter D, Chapter 33, Education Code, is  
11 amended by adding Section 33.088 to read as follows:

12 Sec. 33.088. ELIGIBILITY OF STUDENTS PARTICIPATING IN JOINT  
13 CREDIT OR CONCURRENT ENROLLMENT PROGRAMS. A student otherwise  
14 eligible to participate in an extracurricular activity or a  
15 University Interscholastic League competition is not ineligible  
16 because the student is enrolled in a course offered for joint high  
17 school and college credit or in a course offered under a concurrent  
18 enrollment program, regardless of the location at which the course  
19 is provided.

20 SECTION 2C.07. Subchapter A, Chapter 44, Education Code, is  
21 amended by adding Section 44.011 to read as follows:

22 Sec. 44.011. EXPENDITURES FOR DIRECT INSTRUCTIONAL  
23 ACTIVITIES. (a) A school district shall allocate at least 65  
24 percent of the district's total available revenue to fund direct  
25 instructional activities in the district. The commissioner by rule  
26 shall determine the manner in which a district's total available  
27 revenue for purposes of this section is computed.

1       (a-1) Subsection (a) applies beginning with the 2009-2010  
2 school year. For the 2006-2007, 2007-2008, and 2008-2009 school  
3 years, a school district shall allocate the following percentages  
4 of the district's total available revenue to fund direct  
5 instructional activities in the district:

6           (1) for the 2006-2007 school year, at least 50  
7 percent;

8           (2) for the 2007-2008 school year, at least 55  
9 percent; and

10          (3) for the 2008-2009 school year, at least 60  
11 percent.

12       (a-2) Subsection (a-1) and this subsection expire August 1,  
13 2009.

14       (b) For purposes of this section, whether an expenditure is  
15 an expenditure for direct instructional activities shall be  
16 determined in accordance with standards and definitions adopted by  
17 the National Center for Education Statistics of the United States  
18 Department of Education.

19       (c) The commissioner may adopt rules for purposes of this  
20 section in a manner consistent with Subsection (b) and Section  
21 44.0071.

22       SECTION 2C.08. Section 44.0071, Education Code, is amended  
23 by amending Subsection (a) and adding Subsection (a-1) to read as  
24 follows:

25       (a) Each fiscal year, a school district shall compute and  
26 report to the commissioner:

27           (1) the percentage of the district's total available

1 revenue [~~expenditures~~] for the preceding fiscal year that was  
2 [~~were~~] used to fund direct instructional activities; [~~and~~]

3 (2) the percentage of the district's total available  
4 revenue for the preceding fiscal year that was used to fund direct  
5 instructional activities related to courses that are subject to  
6 assessment under Subchapter B, Chapter 39; and

7 (3) the percentage of the district's full-time  
8 equivalent employees during the preceding fiscal year whose job  
9 function was to directly provide classroom instruction to students,  
10 determined by dividing the number of hours spent by employees in  
11 providing direct classroom instruction by the total number of hours  
12 worked by all district employees.

13 (a-1) The commissioner by rule shall determine the manner in  
14 which a district's total available revenue for purposes of this  
15 section is computed.

16 SECTION 2C.09. Section 11.066, Education Code, as added by  
17 this Act, applies only to trustee attendance at a board of trustees  
18 meeting held on or after the effective date of this Act. Trustee  
19 attendance at a board of trustees meeting held before the effective  
20 date of this Act is governed by the law in effect when the meeting  
21 was held, and the former law is continued in effect for that  
22 purpose.

23 SECTION 2C.10. Section 11.2011, Education Code, as added by  
24 this Act, applies only to a contract between a superintendent of a  
25 school district and a business entity that is entered into,  
26 amended, or extended on or after September 1, 2006. A contract  
27 between a superintendent of a school district and a business entity

1 that is entered into, amended, or extended before September 1,  
2 2006, is governed by the law in effect on the date the contract is  
3 entered into, and the former law is continued in effect for that  
4 purpose.

5 SECTION 2C.11. Not later than January 1, 2007, the Texas  
6 Education Agency shall adopt a five-year plan to renovate the  
7 Public Education Information Management System (PEIMS) to provide  
8 for efficient and effective information storage and retrieval for  
9 the purposes of allocating scarce school resources. The renovation  
10 must include a redesign of the records layout.

11 PART D. ACCOUNTABILITY

12 SECTION 2D.01. Subchapter A, Chapter 7, Education Code, is  
13 amended by adding Section 7.0071 to read as follows:

14 Sec. 7.0071. PUBLIC ACCESS TO PEIMS DATA. (a) The  
15 commissioner by rule shall adopt procedures to make available,  
16 through the agency Internet website, all financial information  
17 provided by school districts and campuses through the Public  
18 Education Information Management System (PEIMS), including  
19 campus-level expenditure information.

20 (b) In adopting rules under this section, the commissioner  
21 shall provide a summarized format for reporting financial  
22 information on the agency Internet website.

23 SECTION 2D.02. Section 28.006(j), Education Code, is  
24 amended to read as follows:

25 (j) No more than 15 percent of the funds certified by the  
26 commissioner under Subsection (i) may be spent on indirect costs.  
27 The commissioner shall evaluate the programs that fail to meet the

1 standard of performance under Section 39.051(b)(10) [~~39.051(b)(7)~~]  
2 and may implement sanctions under Subchapter G, Chapter 39. The  
3 commissioner may audit the expenditures of funds appropriated for  
4 purposes of this section. The use of the funds appropriated for  
5 purposes of this section shall be verified as part of the district  
6 audit under Section 44.008.

7 SECTION 2D.03. Subchapter A, Chapter 7, Education Code, is  
8 amended by adding Section 7.010 to read as follows:

9 Sec. 7.010. BEST PRACTICES; CLEARINGHOUSE. (a) In  
10 coordination with the Legislative Budget Board and with the  
11 assistance of the centers of education research established under  
12 Section 1.005, the agency shall establish an online clearinghouse  
13 of information relating to best practices of campuses and school  
14 districts regarding instruction, resource allocation, and business  
15 practices. To the extent practicable, the agency shall ensure that  
16 information provided through the online clearinghouse is specific,  
17 actionable information relating to the best practices of  
18 high-performing and highly efficient campuses and school districts  
19 rather than general guidelines relating to campus and school  
20 district operation. The information must be accessible by campuses,  
21 school districts, and interested members of the public.

22 (b) The agency shall solicit and collect from the  
23 Legislative Budget Board, centers of education research  
24 established under Section 1.005, and exemplary or recognized school  
25 districts and public charter districts, as rated under Section  
26 39.072, examples of best practices relating to instruction,  
27 resource allocation, and business practices, including best

1 practices relating to curriculum, scope and sequence, compensation  
2 and incentive systems, bilingual education and special language  
3 programs, and the effective use of instructional technology,  
4 including online courses.

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

13 SECTION 2D.04. Subchapter A, Chapter 11, Education Code, is  
14 amended by adding Section 11.004 to read as follows:

15 Sec. 11.004. APPLICABILITY OF TITLE TO EXEMPLARY DISTRICTS  
16 AND CAMPUSES. (a) Except as provided by Subsection (b), a school  
17 district or campus rated exemplary under Section 39.072 is subject  
18 only to the prohibitions, restrictions, and requirements of this  
19 title that apply to a public charter district under Section  
20 11A.052(b) as approved by the commissioner.

21 (b) A school district or campus described by Subsection (a)  
22 is subject to the prohibitions, restrictions, and requirements of  
23 Chapter 37, as applicable.

24 SECTION 2D.05. Sections 29.053(b) and (d), Education Code,  
25 are amended to read as follows:

26 (b) Within the first five [~~four~~] weeks following the first  
27 day of school, the language proficiency assessment committee

1 established under Section 29.063 shall determine and report to the  
2 board of trustees of the district the number of students of limited  
3 English proficiency on each campus and shall classify each student  
4 according to the language in which the student possesses primary  
5 proficiency. The board shall report that information to the agency  
6 before November 1 each year.

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

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

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

14 (3) [~~2~~] bilingual education, instruction in English  
15 as a second language, or other transitional language instruction  
16 approved by the agency in post-elementary grades through grade 8;  
17 and

18 (4) [~~3~~] instruction in English as a second language  
19 in grades 9 through 12.

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

22 Sec. 29.0822. OPTIONAL FLEXIBLE SCHOOL DAY PROGRAM. (a)  
23 Notwithstanding Section 25.081 or 25.082, a school district may  
24 provide a flexible school day program for students in grades nine  
25 through 12 who have dropped out of school or who are at risk of  
26 dropping out of school as defined by Section 29.081.

27 (b) To enable a school district to provide a program under

1 this section that meets the needs of students described by  
2 Subsection (a), a school district may:

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

5 (2) provide flexibility in the number of days each  
6 week a student attends; or

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

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

14 (d) The commissioner may adopt rules for the administration  
15 of this section. The commissioner shall calculate average daily  
16 attendance for students served under this section. The  
17 commissioner shall allow accumulations of hours of instruction for  
18 students whose schedule would not otherwise allow full state  
19 funding. Funding under this subsection shall be determined based  
20 on the number of instructional days in the district calendar and a  
21 seven-hour school day, but attendance may be cumulated over a  
22 school year, inclusive of any summer or vacation sessions. The  
23 attendance of students who accumulate less than the number of  
24 attendance hours required under this subsection shall be  
25 proportionately reduced for funding purposes. The commissioner may  
26 set maximum funding amounts for an individual course under this  
27 section.

1 SECTION 2D.07. Section 29.202, Education Code, is amended  
2 to read as follows:

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

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

8 (2) used to measure various indicators of educational  
9 success to determine the progress of a campus towards academic  
10 achievement.

11 (b) A student is eligible to receive a public education  
12 grant or to attend another public school in the district in which  
13 the student resides under this subchapter if the student is  
14 assigned to attend a public school campus:

15 (1) at which 50 percent or more of the students did not  
16 perform satisfactorily on an assessment instrument administered  
17 under Section 39.023(a) or (c) in any two of the preceding three  
18 years; ~~or~~

19 (2) that was, at any time in the preceding three years,  
20 considered academically unacceptable ~~[low-performing]~~ under  
21 Section 39.132; or

22 (3) that has not met the adequate yearly progress  
23 standard for the same indicator of educational success for the  
24 preceding two years.

25 (c) ~~(b)~~ After a student has used a public education grant  
26 to attend a school in a district other than the district in which  
27 the student resides, +

1           ~~[(1)]~~ the student does not become ineligible for the  
2 grant if the school on which the student's initial eligibility is  
3 based no longer meets the criteria under Subsection (b) ~~[(a), and~~  
4           ~~[(2) the student becomes ineligible for the grant if~~  
5 ~~the student is assigned to attend a school that does not meet the~~  
6 ~~criteria under Subsection (a)]~~.

7           SECTION 2D.08. Subchapter G, Chapter 29, Education Code, is  
8 amended by adding Section 29.2021 to read as follows:

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

13           SECTION 2D.09. Section 29.203(f), Education Code, is  
14 amended to read as follows:

15           (f) The school district in which a student resides shall  
16 provide each student attending a school in another district under  
17 this subchapter transportation free of charge to and from the  
18 school the student would otherwise attend, except as provided by  
19 Section 1116, No Child Left Behind Act of 2001 (20 U.S.C. Section  
20 6316).

21           SECTION 2D.10. Section 39.022, Education Code, is amended  
22 to read as follows:

23           Sec. 39.022. ASSESSMENT PROGRAM. (a) The State Board of  
24 Education by rule shall create and implement a statewide assessment  
25 program that is knowledge- and skills-based to ensure school  
26 accountability for student achievement that achieves the goals  
27 provided under Section 4.002. After adopting rules under this

1 section, the State Board of Education shall consider the importance  
2 of maintaining stability in the statewide assessment program when  
3 adopting any subsequent modification of the rules.

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

6 SECTION 2D.11. Section 39.023, Education Code, is amended  
7 by amending Subsections (a)-(e), (i), (j), and (l)-(n) and adding  
8 Subsections (a-1) and (b-1) to read as follows:

9 (a) The agency shall adopt or develop appropriate  
10 criterion-referenced assessment instruments designed to assess  
11 essential knowledge and skills in reading, writing, mathematics,  
12 social studies, and science. Except as otherwise provided by this  
13 subchapter, all [All] students[, except students assessed under  
14 Subsection (b) or (l) or exempted under Section 39.027,] shall be  
15 assessed in:

16 (1) mathematics, annually in grades three through  
17 [~~seven without the aid of technology and in grades eight through~~] 11  
18 [~~with the aid of technology on any assessment instruments that~~  
19 ~~include algebra~~];

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

21 (3) writing, including spelling and grammar, in grades  
22 four and seven;

23 (4) English language arts, in grades [~~grade~~] 10 and  
24 11;

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

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

27 and

1           (7) any other subject and grade required by federal  
2 law.

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

14           (b) The agency shall develop or adopt appropriate  
15 criterion-referenced assessment instruments to be administered to  
16 each student in a special education program under Subchapter A,  
17 Chapter 29, who receives modified instruction in the essential  
18 knowledge and skills identified under Section 28.002 for the  
19 assessed subject but for whom an assessment instrument adopted  
20 under Subsection (a), even with allowable accommodations  
21 [~~modifications~~], would not provide an appropriate measure of  
22 student achievement, as determined by the student's admission,  
23 review, and dismissal committee. The assessment instruments  
24 required under this subsection must assess essential knowledge and  
25 skills [~~and growth~~] in the subjects of reading, mathematics, and  
26 writing and any other subject required by federal law. A student's  
27 admission, review, and dismissal committee shall determine whether

1 any allowable accommodation [~~modification~~] is necessary in  
2 administering to the student an assessment instrument required  
3 under this subsection or whether an alternate assessment instrument  
4 must be used to measure alternate academic achievement standards.

5 A student's admission, review, and dismissal committee shall  
6 determine the high school graduation assessment requirements for a  
7 student in a special education program under Subchapter A, Chapter  
8 29, and may use local alternative assessment instruments if  
9 multiple testing opportunities are not available for a student. To  
10 the extent practicable, the [~~The~~] assessment instruments required  
11 under this subsection shall be administered on the same schedule as  
12 the assessment instruments administered under Subsection (a). The  
13 commissioner shall adopt rules to implement this subsection.

14 (b-1) The agency shall adopt or develop appropriate  
15 criterion-referenced instruments as required by federal law  
16 designed to measure alternate academic achievement standards for  
17 students in a special education program under Subchapter A, Chapter  
18 29, with the most significant cognitive disabilities.

19 (c) The [~~agency shall also adopt~~] secondary exit-level  
20 assessment instruments designed to be administered to students in  
21 grade 11 under Subsection (a) must [~~to~~] assess essential knowledge  
22 and skills in mathematics, English language arts, social studies,  
23 and science. The mathematics section must include at least Algebra  
24 I and geometry [~~with the aid of technology~~]. The English language  
25 arts section must include at least English III and must include the  
26 assessment of essential knowledge and skills in writing. The social  
27 studies section must include early American and United States

1 history. The science section must include at least biology and  
2 integrated chemistry and physics. The assessment instruments must  
3 be designed to assess a student's mastery of minimum skills  
4 necessary for high school graduation and readiness to enroll in an  
5 institution of higher education. ~~[If a student is in a special  
6 education program under Subchapter A, Chapter 29, the student's  
7 admission, review, and dismissal committee shall determine whether  
8 any allowable modification is necessary in administering to the  
9 student an assessment instrument required under this subsection or  
10 whether the student should be exempted under Section 39.027(a)(2).  
11 The State Board of Education shall administer the assessment  
12 instruments. The State Board of Education shall adopt a schedule  
13 for the administration of secondary exit-level assessment  
14 instruments.]~~ Each student who did not perform satisfactorily on  
15 any secondary exit-level assessment instrument when initially  
16 tested shall be given multiple opportunities to retake that  
17 assessment instrument. A student who performs at or above a level  
18 established by the Texas Higher Education Coordinating Board on the  
19 secondary exit-level assessment instruments is exempt from the  
20 requirements of Section 51.3062 ~~[51.306]~~. The performance level  
21 established by the Texas Higher Education Coordinating Board under  
22 this subsection represents the level of academic achievement  
23 indicating a student is prepared for college course work. The  
24 performance level may be used as an indicator to measure progress  
25 toward college preparedness of public school students in the state.

26 (d) The commissioner may participate in multistate efforts  
27 to develop voluntary standardized end-of-course assessment

1 instruments. The commissioner by rule may require a school  
2 district to administer an end-of-course assessment instrument  
3 developed through the multistate efforts. The admission, review,  
4 and dismissal committee of a student in a special education program  
5 under Subchapter A, Chapter 29, shall determine whether any  
6 allowable accommodation [~~modification~~] is necessary in  
7 administering to the student an end-of-course assessment  
8 instrument or whether the student should be exempted [~~under Section~~  
9 ~~39.027(a)(2)~~].

10 (e) Under rules adopted by the State Board of Education,  
11 [~~every other year,~~] the agency shall release the questions and  
12 answer keys to each assessment instrument administered under  
13 Subsection (a), (b), (c), (d), or (l) or Section 39.027 on or after  
14 August 1 after the second anniversary of the date [~~after the last~~  
15 ~~time~~] the instrument was [~~is~~] administered [~~for that school year~~].  
16 To ensure a valid bank of questions for use each year, the agency is  
17 not required to release a question that is being field-tested and  
18 was not used to compute the student's score on the instrument. The  
19 agency shall also release, under board rule, each question that is  
20 no longer being field-tested and that was not used to compute a  
21 student's score.

22 (i) The provisions of this section, except Subsection (d),  
23 are subject to modification by rules adopted under Section 39.022.  
24 Each assessment instrument adopted or developed under this section  
25 [~~these rules and each assessment instrument required under~~  
26 ~~Subsection (d)~~] must be reliable and valid and must meet any  
27 applicable federal requirements for measurement of student

1 progress.

2 (j) The commissioner shall develop a standardized  
3 end-of-course assessment instrument for Algebra I. The  
4 commissioner by rule may require a school district to administer  
5 the [an] end-of-course assessment instrument developed under this  
6 subsection [in Algebra I]. The admission, review, and dismissal  
7 committee of a student in a special education program under  
8 Subchapter A, Chapter 29, shall determine whether any allowable  
9 accommodation [modification] is necessary in administering to the  
10 student an end-of-course assessment instrument [~~or whether the~~  
11 ~~student should be exempted under Section 39.027(a)(2)]~~.

12 (l) The agency [State Board of Education] shall adopt or  
13 develop a Spanish version [rules for the administration] of the  
14 assessment instruments adopted under Subsection (a) for [in Spanish  
15 ~~to]~~ students in grades three through six who are of limited English  
16 proficiency, as defined by Section 29.052, whose primary language  
17 is Spanish, and who are not otherwise exempt from the  
18 administration of an assessment instrument under Section 39.027  
19 [~~39.027(a)(3) or (4)]~~. Each student of limited English proficiency  
20 whose primary language is Spanish, other than a student to whom  
21 Subsection (b) or (b-1) applies, may be assessed using assessment  
22 instruments in Spanish under this subsection for up to three years  
23 or assessment instruments in English under Subsection (a). The  
24 language proficiency assessment committee established under  
25 Section 29.063 shall determine which students are administered  
26 assessment instruments in Spanish under this subsection.

27 (m) The commissioner by rule shall develop procedures under

1 which the language proficiency assessment committee established  
2 under Section 29.063 shall determine which students in grades three  
3 through 10 are exempt from the administration of the assessment  
4 instruments under Section 39.027 [~~39.027(a)(3) and (4)~~]. The rules  
5 adopted under this subsection shall ensure that the language  
6 proficiency assessment committee provides that the exempted  
7 students are administered the assessment instruments under  
8 Subsections (a) and (c) at the earliest practical date. As  
9 necessary to comply with federal requirements, the commissioner by  
10 rule shall develop procedures under which a student who is exempt  
11 from the administration of an assessment instrument under Section  
12 39.027 is administered a linguistically accommodated assessment  
13 instrument.

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

1 ~~[modification is]~~ necessary in administering to a student an  
2 assessment instrument required under this section ~~[subsection. The~~  
3 ~~assessment instruments required under this subsection shall be~~  
4 ~~administered on the same schedule as the assessment instruments~~  
5 ~~administered under Subsection (a)]~~.

6 SECTION 2D.12. Sections 39.024(a) and (c), Education Code,  
7 are amended to read as follows:

8 (a) Except as otherwise provided by this subsection, the  
9 State Board of Education shall determine the level of performance  
10 considered to be satisfactory on the assessment instruments  
11 administered under Section 39.023. The commissioner by rule  
12 ~~[admission, review, and dismissal committee of a student being~~  
13 ~~assessed under Section 39.023(b)]~~ shall determine the level of  
14 performance considered to be satisfactory on the assessment  
15 instruments administered under Section 39.023(b) or (b-1) ~~[to that~~  
16 ~~student]~~ in accordance with applicable federal requirements  
17 ~~[criteria established by agency rule]~~.

18 (c) The agency shall develop study guides for the assessment  
19 instruments administered under Sections 39.023(a) and (1) ~~[(c)]~~.  
20 To assist parents in providing assistance during the period that  
21 school is recessed for summer, each school district shall  
22 distribute the study guides to parents of students who do not  
23 perform satisfactorily on one or more parts of the ~~[an]~~ assessment  
24 instrument ~~[administered under this subchapter]~~.

25 SECTION 2D.13. Section 39.025(a), Education Code, is  
26 amended to read as follows:

27 (a) A student may not receive a high school diploma until

1 the student has performed satisfactorily on the secondary  
2 exit-level assessment instruments for English language arts,  
3 mathematics, social studies, and science administered under  
4 Section 39.023(a) [~~39.023(c)~~]. This subsection does not require a  
5 student to demonstrate readiness to enroll in an institution of  
6 higher education.

7 SECTION 2D.14. Effective August 1, 2006, Subchapter B,  
8 Chapter 39, Education Code, is amended by adding Section 39.0261 to  
9 read as follows:

10 Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) In  
11 addition to the assessment instruments otherwise authorized or  
12 required by this subchapter:

13 (1) each school year and at state cost, a school  
14 district may administer to students in any two grade levels other  
15 than the 11th or 12th grade an established, valid, reliable, and  
16 nationally norm-referenced preliminary college preparation  
17 assessment instrument; and

18 (2) high school students in the spring of the 11th  
19 grade or during the 12th grade may select and take once, at state  
20 cost, one of the valid, reliable, and nationally norm-referenced  
21 assessment instruments used by colleges and universities as part of  
22 their undergraduate admissions processes.

23 (b) The agency shall:

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

26 (2) pay all fees associated with the administration of  
27 the assessment instrument from funds allotted under the Foundation

1 School Program, and the commissioner shall reduce the total amount  
2 of state funds allocated to each district from any source in the  
3 same manner described for a reduction in allotments under Section  
4 42.313.

5 (c) The agency shall ensure that vendors are not paid under  
6 Subsection (b) for the administration of an assessment instrument  
7 to a student to whom the assessment instrument is not actually  
8 administered. The agency may comply with this subsection by any  
9 reasonable means, including by creating a refund system under which  
10 a vendor returns any payment made for a student who registered for  
11 the administration of an assessment instrument but did not appear  
12 for the administration.

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

16 (e) Subsection (a)(2) does not prohibit a high school  
17 student in the spring of the 11th grade or during the 12th grade  
18 from selecting and taking, at the student's own expense, one of the  
19 valid, reliable, and nationally norm-referenced assessment  
20 instruments used by colleges and universities as part of their  
21 undergraduate admissions processes more than once.

22 SECTION 2D.15. Sections 39.027(a), (e), and (g), Education  
23 Code, are amended to read as follows:

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

26 (1) ~~[Section 39.023(a) or (b) if the student is~~  
27 ~~eligible for a special education program under Section 29.003 and~~

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

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

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

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

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

19 (2) ~~[(4)]~~ Section 39.023(a), (b), (b-1), or (l) for a  
20 period of up to two years in addition to the exemption period  
21 authorized by Subdivision (1) ~~[(3)]~~ if the student has received an  
22 exemption under Subdivision (1) ~~[(3)]~~ and:

23 (A) is a recent unschooled immigrant; or

24 (B) is in a grade for which no assessment  
25 instrument in the primary language of the student is available.

26 (e) As provided by applicable federal requirements, the  
27 ~~[The]~~ commissioner shall develop an assessment system that shall be

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

16 (g) For purposes of this section, "recent unschooled  
17 immigrant" means an immigrant who initially enrolled in a school in  
18 the United States not more than 12 months before the date of the  
19 administration of an assessment instrument under Section 39.023  
20 [~~39.023(a) or (1)~~] and who, as a result of inadequate schooling  
21 outside of the United States, lacks the necessary foundation in the  
22 essential knowledge and skills of the curriculum prescribed under  
23 Section 28.002 as determined by the language proficiency assessment  
24 committee established under Section 29.063. For purposes of this  
25 subsection and to the extent authorized by federal law, a child's  
26 prior enrollment in a school in the United States shall be  
27 determined on the basis of documents and records required under

1 Section 25.002(a).

2 SECTION 2D.16. Subchapter B, Chapter 39, Education Code, is  
3 amended by adding Section 39.034 to read as follows:

4 Sec. 39.034. MEASURE OF INCREMENTAL GROWTH IN STUDENT  
5 ACHIEVEMENT. (a) The commissioner shall determine a method by  
6 which the agency may measure incremental growth in student  
7 achievement from one school year to the next on an assessment  
8 instrument required under this subchapter.

9 (b) The agency shall report to each school district the  
10 comparisons made under Subsection (a). Each school district shall  
11 provide the comparisons to each teacher for all students who were:

12 (1) assessed on an assessment instrument; and  
13 (2) taught by that teacher in the subject for which the  
14 assessment instrument was administered.

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

18 (d) To the extent practicable, the agency shall combine the  
19 report of the comparisons required under this section with the  
20 report of the student's performance on assessment instruments  
21 administered under Section 39.023.

22 (e) The commissioner shall implement this section not later  
23 than September 1, 2006. This subsection expires January 1, 2008.

24 SECTION 2D.17. Subchapter B, Chapter 39, Education Code, is  
25 amended by adding Section 39.035 to read as follows:

26 Sec. 39.035. CRIMINAL PENALTY RELATED TO ADMINISTRATION OF  
27 ASSESSMENT INSTRUMENT. (a) An administrator, teacher, other

1 employee, contractor, or volunteer of a school district or public  
2 charter district commits an offense if, for the primary purpose of  
3 influencing the results of an assessment instrument administered  
4 under this subchapter, the person intentionally:

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

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

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

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

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

20 (b) An offense under this section is a Class A misdemeanor.

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

24 SECTION 2D.18. Section 39.051(b), Education Code, as  
25 amended by Chapters 433 and 805, Acts of the 78th Legislature,  
26 Regular Session, 2003, is reenacted and amended to read as follows:

27 (b) Performance on the indicators adopted under this

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

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

10 (2) dropout rates, including dropout rates and  
11 district completion rates for grade levels 7 [~~9~~] through 12,  
12 computed:

13 (A) as a longitudinal rate and an annual  
14 completion rate by grade; and

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

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

22 (4) student attendance rates;

23 (5) the percentage of graduating students who attain  
24 scores on the secondary exit-level assessment instruments required  
25 under Subchapter B that are equivalent to a passing score on the  
26 assessment [~~test~~] instrument required under Section 51.3062  
27 [~~51.306~~];

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

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

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

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

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

1           (11) [~~(9)~~] for students who have failed to perform  
2 satisfactorily on an assessment instrument required under Section  
3 39.023(a) or (c), the numerical progress of those students grouped  
4 by number and percentage on subsequent assessment instruments  
5 required under those sections, aggregated by grade level and  
6 subject area;

7           (12) [~~(10)~~] the percentage of students exempted, by  
8 exemption category, from the assessment program generally  
9 applicable under this chapter; [~~and~~]

10           (13) [~~(11)~~] the percentage of students of limited  
11 English proficiency exempted from the administration of an  
12 assessment instrument under Sections 39.027(a)(1) and (2);

13           (14) [~~39.027(a)(3) and (4)~~] the percentage of students  
14 in a special education program under Subchapter A, Chapter 29,  
15 assessed through assessment instruments developed or adopted under  
16 Section 39.023(b);

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

23           (16) the performance of students who are not  
24 educationally disadvantaged on an assessment instrument under  
25 Sections 39.023(a), (b), (c), and (l) and dropout rates and  
26 district completion rates for grades 9 through 12 for those  
27 students.

1 SECTION 2D.19. Section 39.052(b), Education Code, is  
2 amended to read as follows:

3 (b) The report card shall include the following  
4 information:

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

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

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

10 (4) the district's instructional expenditures ratio  
11 and instructional employees ratio computed under Section 44.0071,  
12 and the statewide average of those ratios, as determined by the  
13 commissioner.

14 SECTION 2D.20. Section 39.055, Education Code, is amended  
15 to read as follows:

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

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

1 ~~the risk-based system indicates that a district is at high risk of~~  
 2 ~~having inaccurate dropout records, the district is entitled to an~~  
 3 ~~opportunity to respond to the commissioner's determination before~~  
 4 ~~on-site monitoring may be conducted. The district must respond not~~  
 5 ~~later than the 30th day after the date the commissioner notifies the~~  
 6 ~~district of the commissioner's determination. If the district's~~  
 7 ~~response does not change the commissioner's determination that the~~  
 8 ~~district is at high risk of having inaccurate dropout records or if~~  
 9 ~~the district does not respond in a timely manner, the commissioner~~  
 10 ~~shall order agency staff to conduct on-site monitoring of the~~  
 11 ~~district's dropout records].~~

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

23       SECTION 2D.21. Sections 39.071 and 39.072, Education Code,  
 24 are amended to read as follows:

25       Sec. 39.071. ACCREDITATION. **(a)** Accreditation of a school  
 26 district is determined in accordance with this section  
 27 [~~subchapter~~].

1        (b) Each year, the commissioner shall determine the  
2 accreditation status of each school district. In determining  
3 accreditation status, the commissioner:

4            (1) shall evaluate and consider the performance of the  
5 district under:

6                    (A) the academic accountability system under  
7 Section 39.072; and

8                    (B) the financial accountability system under  
9 Subchapter I;

10           (2) shall evaluate and consider:

11                    (A) the results of any special accreditation  
12 investigation under Section 39.075; and

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

15           (3) may consider:

16                    (A) the district's compliance with statutory  
17 requirements and requirements imposed by rule of the commissioner  
18 or State Board of Education under specific statutory authority that  
19 relate to:

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

23                            (ii) the high school graduation  
24 requirements under Section 28.025; or

25                            (iii) an item listed under Sections  
26 7.056(e)(3)(C)-(I) that applies to the district;

27                    (B) the effectiveness of the district's programs

1 for special populations; and

2 (C) the effectiveness of the district's career  
3 and technology program.

4 (c) Based on a school district's performance under  
5 Subsection (b), the commissioner shall:

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

7 (A) accredited;

8 (B) accredited-warned; or

9 (C) accredited-probation; or

10 (2) revoke the accreditation of the district and order  
11 closure of the district under this subchapter.

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

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

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

27 Sec. 39.072. ACADEMIC ACCOUNTABILITY SYSTEM [~~ACCREDITATION~~]

1 ~~STANDARDS~~]. (a) The commissioner [~~State Board of Education~~] shall  
2 adopt rules for assigning [~~to evaluate the performance of school~~  
3 ~~districts and to assign~~] to each school district and campus a  
4 performance rating as follows:

5 (1) exemplary (meets or exceeds state exemplary  
6 standards);

7 (2) recognized (meets or exceeds required improvement  
8 or [~~and~~] within 10 percent of state exemplary standards);

9 (3) academically acceptable (below the exemplary and  
10 recognized standards but exceeds the academically unacceptable  
11 standards); or

12 (4) academically unacceptable (below the state  
13 clearly unacceptable performance standard and does not meet  
14 required improvement).

15 (b) The academic excellence indicators adopted under  
16 Section 39.051(b) [~~Sections 39.051(b)(1) through (7) and the~~  
17 ~~district's current special education compliance status with the~~  
18 ~~agency~~] shall be the main considerations of the agency in the rating  
19 of a school [~~the~~] district or campus under this section.  
20 [~~Additional criteria in the rules may include consideration of:~~

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

24 [~~(A) reporting data through the Public Education~~  
25 ~~Information Management System (PEIMS),~~

26 [~~(B) the high school graduation requirements~~  
27 ~~under Section 28.025, or~~

1                   ~~[(C) an item listed in Sections~~  
2 ~~7.056(e)(3)(C)-(I) that applies to the district;~~

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

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

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

17           (d) The agency shall annually review the performance of each  
18 school district and campus and determine if a change in the academic  
19 performance rating of the district or campus is warranted.  
20 Notwithstanding any other provision of this code, the commissioner  
21 shall determine how the indicators adopted under Section 39.051(b)  
22 may be used to determine academic performance ratings and to select  
23 districts and campuses for acknowledgment.

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

27                   (1) state standards established for each indicator;

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

3           (3) comparable improvement as determined under  
4 Section 39.051(c).

5           (f) The academic performance rating of a school district may  
6 be raised or lowered based on the district's performance or may be  
7 lowered based on the unacceptable performance of one or more  
8 campuses in the district. The academic performance rating of a  
9 school district may also be lowered based on a determination that  
10 data provided to the agency by the district that is necessary for  
11 conducting an annual review under this section is unreliable.

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

19           (h) Notwithstanding any other provision of this code, for  
20 purposes of determining the performance of a school district or  
21 public charter district under this chapter, including the academic  
22 performance rating [accreditation status] of the district or  
23 school, a student attending a campus that is a [confined by court  
24 order in a residential program or] facility operated by or under  
25 contract with the Texas Youth Commission, a pre-adjudication secure  
26 detention facility or a post-adjudication secure correctional  
27 facility that is registered with the Texas Juvenile Probation

1 Commission, or a residential facility is not considered to be a  
2 student of the school district or public charter district school  
3 serving the student [~~in which the program or facility is physically~~  
4 ~~located~~]. For purposes of this section, an involuntary residential  
5 facility, including a detention center, residential treatment  
6 center, or psychiatric hospital, is not considered a campus in  
7 determining accreditation status. [~~The performance of such a~~  
8 ~~student on an assessment instrument or other academic excellence~~  
9 ~~indicator adopted under Section 39.051 shall be determined,~~  
10 ~~reported, and considered separately from the performance of~~  
11 ~~students attending a school of the district in which the program or~~  
12 ~~facility is physically located.~~]

13 SECTION 2D.22. Subchapter D, Chapter 39, Education Code, is  
14 amended by adding Section 39.0722 to read as follows:

15 Sec. 39.0722. MEASURE OF POSTSECONDARY PREPARATION. (a)  
16 In addition to school district performance ratings under Section  
17 39.072, the commissioner shall annually rate districts according to  
18 the degree to which the districts prepare students for  
19 postsecondary success, including student performance on assessment  
20 instruments administered under Section 39.0261 and on the  
21 applicable indicators under Sections 39.051(b) and 39.0721. The  
22 commissioner shall consult with the P-16 Council established under  
23 Section 61.076 when adopting criteria under this section.

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

26 SECTION 2D.23. Section 39.075(a), Education Code, is  
27 amended to read as follows:

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

3 (1) when excessive numbers of absences of students  
4 eligible to be tested on state assessment instruments are  
5 determined;

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

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

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

14 (5) when extraordinary numbers of student placements  
15 in alternative education programs, other than placements under  
16 Sections 37.006 and 37.007, are determined;

17 (6) in response to an allegation involving a conflict  
18 between members of the board of trustees or between the board and  
19 the district administration if it appears that the conflict  
20 involves a violation of a role or duty of the board members or the  
21 administration clearly defined by this code;

22 (7) when excessive numbers of students in special  
23 education programs under Subchapter A, Chapter 29, are assessed  
24 through assessment instruments developed or adopted under Section  
25 39.023(b); [~~or~~]

26 (8) in response to questions concerning a program,  
27 including special education, that is required by federal law or for

1 which the district receives federal funds;

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

6 (10) in response to concerns regarding the integrity  
7 of data submitted to the agency;

8 (11) in response to allegations of a violation of  
9 student assessment procedures for assessment instruments adopted  
10 under Section 39.023; or

11 (12) as the commissioner otherwise determines  
12 necessary.

13 SECTION 2D.24. Section 39.075(c), Education Code, as  
14 amended by Chapters 396 and 931, Acts of the 76th Legislature,  
15 Regular Session, 1999, is reenacted and amended to read as follows:

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

18 (1) take appropriate action under Subchapter G;

19 (2) raise or lower the district's accreditation status  
20 [rating]; or

21 (3) take action under both Subdivisions (1) and (2).

22 SECTION 2D.25. Section 39.076, Education Code, is amended  
23 by amending Subsection (a) and adding Subsections (a-1), (a-2),  
24 (a-3), and (c) to read as follows:

25 (a) The agency shall adopt written procedures for  
26 conducting [~~on-site~~] investigations under this subchapter. The  
27 agency shall make the procedures available to the complainant, the

1 alleged violator, and the public. Agency staff must be trained in  
2 the procedures and must follow the procedures in conducting the  
3 investigation.

4 (a-1) An investigation conducted under this subchapter may  
5 be an on-site, desk, or data-based investigation as determined by  
6 the commissioner.

7 (a-2) If conducting an on-site investigation, the  
8 investigators may obtain information from administrators,  
9 teachers, or parents of students enrolled in the school district.  
10 The commissioner shall adopt rules for:

11 (1) obtaining information from parents and using that  
12 information in the investigator's report; and

13 (2) obtaining information from teachers in a manner  
14 that prevents a campus or district from screening the information.

15 (a-3) The agency may give written notice of any impending  
16 on-site investigation to the superintendent and the board of  
17 trustees of a school district.

18 (c) The investigators conducting an on-site investigation  
19 shall report the results of the investigation orally and in writing  
20 to the board of trustees of the district and, as appropriate, to  
21 campus administrators, and shall make recommendations concerning  
22 any necessary improvements or sources of aid, such as regional  
23 education service centers.

24 SECTION 2D.26. Subchapter D, Chapter 39, Education Code, is  
25 amended by adding Sections 39.077 and 39.078 to read as follows:

26 Sec. 39.077. FINALITY OF DECISION BY COMMISSIONER. (a) A  
27 school district or public charter district that wishes to challenge

1 a decision to assign or lower an accreditation status, an academic  
2 performance rating, or a financial accountability rating must  
3 petition for an informal review as provided by Section 7.0571.

4 (b) A final decision by the commissioner to assign or lower  
5 an accreditation status, an academic performance rating, or a  
6 financial accountability rating following a review under Section  
7 7.0571 is final and may not be appealed.

8 Sec. 39.078. RULES. (a) The commissioner may adopt rules  
9 as necessary to administer this subchapter.

10 (b) Unless a provision of this code clearly specifies  
11 otherwise, any rule adopted under Subsection (a) must apply  
12 accreditation requirements and academic performance ratings under  
13 this subchapter to:

14 (1) a public charter district in the same manner as the  
15 requirements and ratings are applied to a school district; and

16 (2) a campus operated by a public charter district in  
17 the same manner as the requirements and ratings are applied to a  
18 campus operated by a school district.

19 SECTION 2D.27. Effective August 1, 2006, Subchapter F,  
20 Chapter 39, Education Code, is amended by adding Section 39.113 to  
21 read as follows:

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

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

3           (2) achieves an accreditation performance rating of  
4 academically acceptable or better; and

5           (3) demonstrates superior growth in the academic  
6 performance of educationally disadvantaged students.

7           (b) The commissioner by rule shall adopt performance  
8 criteria to measure annual growth in student academic performance.  
9 The commissioner shall consider the following criteria, as  
10 applicable:

11           (1) annual growth in student achievement that  
12 contributes to closing performance gaps among various populations  
13 of students;

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

16           (3) growth in high school completion rates;

17           (4) improvement in student scores on college advanced  
18 placement tests; and

19           (5) any other factor that contributes to student  
20 achievement.

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

27           (c-1) The commissioner shall award grants under this

1 section beginning September 1, 2006. This subsection expires  
2 January 1, 2007.

3 (d) At least 75 percent of an award under this section must  
4 be used for additional teacher compensation at the campus level.  
5 The commissioner by rule shall provide for allocating awards under  
6 this subsection, including providing individual awards of at least  
7 \$3,000 for each teacher at a campus receiving an award under this  
8 subsection.

9 (e) Grants from funds appropriated for the award program may  
10 be awarded beginning with the 2006-2007 school year and may not  
11 exceed \$50 million in the 2006-2007 school year except as expressly  
12 authorized by the General Appropriations Act or other law.

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

15 (g) The commissioner shall annually evaluate the  
16 effectiveness of the state incentive program for improving student  
17 performance on at-risk campuses established under this section.  
18 The evaluation must consider:

19 (1) the performance of students in districts under  
20 this section on assessment instruments administered under Section  
21 39.023;

22 (2) the districts' high school graduation and  
23 completion rates; and

24 (3) the districts' teacher attrition rates.

25 SECTION 2D.28. Section 39.131, Education Code, is amended  
26 to read as follows:

27 Sec. 39.131. SANCTIONS FOR DISTRICTS. (a) If a school

1 district does not satisfy the accreditation criteria under Section  
2 39.071, the academic performance standards under Section 39.072, or  
3 any financial accountability standard as determined by  
4 commissioner rule, the commissioner shall take any of the following  
5 actions[~~, listed in order of severity,~~] to the extent the  
6 commissioner determines necessary:

7 (1) issue public notice of the deficiency to the board  
8 of trustees;

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

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

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

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

25 (6) appoint an agency monitor to participate in and  
26 report to the agency on the activities of the board of trustees or  
27 the superintendent;

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

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

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

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

20           (A) order closure of the district and annex the  
21 district to one or more adjoining districts under Section 13.054;  
22 or

23           (B) in the case of a home-rule school district or  
24 public charter district ~~[open-enrollment charter school]~~, order  
25 closure of all programs operated under the district's or school's  
26 charter; or

27           (11) if a district has been rated ~~[as]~~ academically

1 unacceptable for [~~a period of~~] two consecutive school years,  
2 including the current school year, [~~or more~~] due to the district's  
3 dropout rates, impose sanctions designed to improve high school  
4 completion rates, including:

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

7 (B) restructuring the district or appropriate  
8 school campuses to improve identification of and service to  
9 students who are at risk of dropping out of school, as defined by  
10 Section 29.081;

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

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

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

23 SECTION 2D.29. Section 39.132, Education Code, is amended  
24 to read as follows:

25 Sec. 39.132. SANCTIONS FOR ACADEMICALLY UNACCEPTABLE AND  
26 CERTAIN OTHER CAMPUSES. [~~(a)~~] If a campus performance is below any  
27 standard under Section 39.072 [~~39.073(b)~~], the campus is considered

1 an academically unacceptable [~~a low-performing~~] campus. The  
2 commissioner may permit the campus to participate in an innovative  
3 redesign of the campus to improve campus performance or shall [~~may~~]  
4 take any of the other following actions[~~, listed in order of~~  
5 ~~severity~~], to the extent the commissioner determines necessary:

6 (1) issue public notice of the deficiency to the board  
7 of trustees;

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

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

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

17 [~~order the preparation of a report regarding the~~  
18 ~~parental involvement program at the campus and a plan describing~~  
19 ~~strategies for improving parental involvement at the campus,~~

20 [~~(4) order the preparation of a report regarding the~~  
21 ~~effectiveness of the district- and campus-level planning and~~  
22 ~~decision-making committees established under Subchapter F, Chapter~~  
23 ~~11, and a plan describing strategies for improving the~~  
24 ~~effectiveness of those committees,~~

25 [(~~5~~)] order the preparation of a student [~~achievement~~]  
26 improvement plan that addresses each academic excellence indicator  
27 for which the campus's performance is unacceptable, the submission

1 of the plan to the commissioner for approval, and implementation of  
2 the plan;

3 (4) [~~(6)~~] order a hearing to be held before the  
4 commissioner or the commissioner's designee at which the president  
5 of the board of trustees, the superintendent, and the campus  
6 principal shall appear and explain the campus's low performance,  
7 lack of improvement, and plans for improvement;

8 (5) appoint a technical assistance team under Section  
9 39.1321; or

10 (6) appoint a campus intervention team under Section  
11 39.1321.

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

13 [~~(A)~~] ~~conduct a comprehensive on-site evaluation~~  
14 ~~of the campus to determine the cause for the campus's low~~  
15 ~~performance and lack of progress;~~

16 [~~(B)~~] ~~recommend actions, including reallocation~~  
17 ~~of resources and technical assistance, changes in school procedures~~  
18 ~~or operations, staff development for instructional and~~  
19 ~~administrative staff, intervention for individual administrators~~  
20 ~~or teachers, waivers from state statute or rule, or other actions~~  
21 ~~the team considers appropriate;~~

22 [~~(C)~~] ~~assist in the development of a campus plan~~  
23 ~~for student achievement; and~~

24 [~~(D)~~] ~~assist the commissioner in monitoring the~~  
25 ~~progress of the campus in implementing the campus plan for~~  
26 ~~improvement of student achievement; or~~

27 [~~(8)~~] ~~if a campus has been a low-performing campus for a~~

1 ~~period of one year or more, appoint a board of managers composed of~~  
2 ~~residents of the district to exercise the powers and duties of the~~  
3 ~~board of trustees of the district in relation to the campus.~~

4 ~~[(b) If a campus has been a low-performing campus for a~~  
5 ~~period of two consecutive years or more, the commissioner shall~~  
6 ~~order the closure of the district or charter program on the campus~~  
7 ~~or reconstitute the campus. In reconstituting the campus, a~~  
8 ~~special campus intervention team shall be assembled for the purpose~~  
9 ~~of deciding which educators may be retained at that campus. If an~~  
10 ~~educator is not retained, the educator may be assigned to another~~  
11 ~~position in the district.]~~

12 SECTION 2D.30. Subchapter G, Chapter 39, Education Code, is  
13 amended by adding Sections 39.1321-39.1323 and 39.1325-39.1327 to  
14 read as follows:

15 Sec. 39.1321. TECHNICAL ASSISTANCE AND CAMPUS INTERVENTION  
16 TEAMS. (a) If a campus is rated academically acceptable for the  
17 current school year but would be rated as academically unacceptable  
18 if performance standards to be used for the following school year  
19 were applied to the current school year, the commissioner shall  
20 select and assign a technical assistance team to assist the campus  
21 in executing a school improvement plan and any other school  
22 improvement strategies the commissioner determines appropriate.

23 (b) If a campus has been identified as academically  
24 unacceptable under Section 39.132, the commissioner shall appoint a  
25 campus intervention team.

26 (c) To the extent practicable, the commissioner shall  
27 select and assign the technical assistance team under Subsection

1 (a) or the campus intervention team under Subsection (b) before the  
2 first day of instruction for the school year.

3 (d) The commissioner may determine when the services of a  
4 technical assistance team or campus intervention team are no longer  
5 needed at a campus under this section.

6 Sec. 39.1322. CAMPUS INTERVENTION TEAM PROCEDURES. (a) A  
7 campus intervention team shall:

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

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

17 (3) assist in the development of a school improvement  
18 plan for student achievement; and

19 (4) assist the commissioner in monitoring the progress  
20 of the campus in implementing the school improvement plan for  
21 improvement of student achievement.

22 (b) A campus intervention team assigned under Section  
23 39.1321 to a campus shall conduct a comprehensive on-site  
24 evaluation of the campus to determine the cause for the campus's low  
25 performance and lack of progress. The team shall have wide latitude  
26 to determine what factors to assess and how to conduct the  
27 assessment. Some factors to be considered are:

1           (1) an assessment of the staff to determine the  
2 percentage of certified teachers who are teaching in their field,  
3 the number of teachers with less than three years of experience, and  
4 teacher turnover rates;

5           (2) compliance with the appropriate class-size rules  
6 and number of class-size waivers received;

7           (3) an assessment of the quality, quantity, and  
8 appropriateness of instructional materials, including the  
9 availability of technology-based instructional materials;

10          (4) a report on the parental involvement strategies  
11 and the effectiveness of the strategies;

12          (5) an assessment of the extent and quality of the  
13 mentoring program provided for new teachers on the campus;

14          (6) an assessment of the type and quality of the  
15 professional development provided to the staff;

16          (7) a demographic analysis of the student population,  
17 including student demographics, at-risk populations, and special  
18 education percentages;

19          (8) a report of disciplinary incidents and school  
20 safety information;

21          (9) financial and accounting practices; and

22          (10) an assessment of the appropriateness of the  
23 curriculum and teaching strategies.

24          (c) On completing the evaluation under this section, the  
25 campus intervention team shall recommend actions, including:

26               (1) reallocation of resources;

27               (2) distribution of additional funds to the campus

1 from funds set aside by the agency for purposes of assisting  
2 campuses in meeting standards specified in the intervention plan;

3 (3) technical assistance;

4 (4) changes in school procedures or operations;

5 (5) staff development for instructional and  
6 administrative staff;

7 (6) intervention for individual administrators or  
8 teachers;

9 (7) waivers from state statutes or rules; or

10 (8) other actions the campus intervention team  
11 considers appropriate.

12 (d) In executing a school improvement plan developed under  
13 Subsection (a)(3), the campus intervention team shall:

14 (1) assist the campus in implementing research-based  
15 practices for curriculum development and classroom instruction,  
16 including bilingual education and special education programs, if  
17 appropriate, and financial management;

18 (2) provide research-based technical assistance,  
19 including data analysis, academic deficiency identification,  
20 intervention implementation, and budget analysis, to strengthen  
21 and improve the instructional programs at the campus; and

22 (3) submit the school improvement plan to the  
23 commissioner for approval.

24 (e) A campus intervention team appointed under Section  
25 39.1321(b):

26 (1) shall continue to work with a campus until:

27 (A) the campus is rated academically acceptable

1 for a two-year period; or

2 (B) the campus is rated academically acceptable  
3 for a one-year period and the commissioner determines that the  
4 campus is operating and will continue to operate in a manner that  
5 improves student achievement; and

6 (2) may continually update the school improvement  
7 plan, with approval from the commissioner, to meet the needs of the  
8 campus.

9 (f) Notwithstanding any other provision of this subchapter,  
10 if the commissioner determines that a campus for which an  
11 intervention is ordered under Section 39.1321(b) is not fully  
12 implementing the campus intervention team's recommendations or  
13 school improvement plan, the commissioner may order the  
14 reconstitution of the campus, pursue alternative management of the  
15 campus as provided by Section 39.1326, or order closure of the  
16 campus.

17 Sec. 39.1323. MANDATORY SANCTIONS. (a) If a campus has  
18 been identified as academically unacceptable for a period of two  
19 consecutive school years, including the current school year, the  
20 commissioner shall order the reconstitution of the campus and  
21 assign a campus intervention team. In determining whether a campus  
22 is rated academically unacceptable for a second year under this  
23 subsection, dropout rates and completion rates may not be  
24 considered. In reconstituting the campus, a campus intervention  
25 team shall assist the campus in:

26 (1) developing a school improvement plan;

27 (2) obtaining approval of the plan from the

1 commissioner; and

2 (3) executing the plan on approval by the  
3 commissioner.

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

13 (c) A campus subject to Subsection (a) shall implement the  
14 school improvement plan as approved by the commissioner. The  
15 commissioner may appoint a monitor, conservator, management team,  
16 or a board of managers to the district to ensure and oversee the  
17 implementation of the school improvement plan.

18 (d) Notwithstanding any other provision of this subchapter,  
19 if the commissioner determines that a campus subject to Subsection  
20 (a) is not fully implementing the school improvement plan, the  
21 commissioner may pursue alternative management of the campus as  
22 provided by Section 39.1326, or may order closure of the campus.

23 (e) If a campus is considered an academically unacceptable  
24 campus for more than two consecutive school years, the commissioner  
25 may order reconstitution or closure of the campus or pursue  
26 alternative management under Section 39.1326.

27 (f) If a campus is considered an academically unacceptable

1 campus for the subsequent school year after the campus is  
2 reconstituted under this section, the commissioner shall pursue  
3 alternative management under Section 39.1326.

4 Sec. 39.1325. TRANSITIONAL SANCTIONS PROVISIONS. For the  
5 2005-2006 school year, the commissioner shall assign a campus  
6 intervention team or a technical assistance team to a campus under  
7 Section 39.1321 on the basis of academic performance ratings for  
8 the 2004-2005 school year. The commissioner may impose a sanction  
9 on a campus under Section 39.1322(f) or 39.1323(a) or (e) on the  
10 basis of academic performance ratings for the 2004-2005 school year  
11 and the 2005-2006 school year. A sanction ordered by the  
12 commissioner before July 1, 2005, shall remain in effect for the  
13 2005-2006 school year. The commissioner may allow a principal  
14 subject to Section 39.1323(b) to remain at a campus for the  
15 2005-2006 school year. This section expires September 1, 2007.

16 Sec. 39.1326. MANAGEMENT OF CERTAIN ACADEMICALLY  
17 UNACCEPTABLE CAMPUSES. (a) A campus may be subject to this section  
18 if the campus has been identified as academically unacceptable  
19 under Section 39.132 and the commissioner orders alternative  
20 management under Section 39.1323(e) or (f).

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

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

27 (1) provide the campus a one-year waiver under this

1 section; and

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

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

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

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

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

21 (3) a proven ability to apply research-based school  
22 intervention strategies;

23 (4) a proven record of financial ability to perform  
24 under the management contract; and

25 (5) any other experience or qualifications the  
26 commissioner determines necessary.

27 (f) In selecting a managing entity under this section, the

1 commissioner shall give preference to an entity that:

2 (1) meets any qualifications under this section; and

3 (2) has documented success in educating students from  
4 similar demographic groups and with similar educational needs as  
5 the students who attend the campus that is to be operated by a  
6 managing entity under this section.

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

16 (h) A management contract under this section shall include  
17 provisions approved by the commissioner that require the managing  
18 entity to demonstrate improvement in campus performance, including  
19 negotiated performance measures. The performance measures must be  
20 consistent with the priorities of this chapter. The commissioner  
21 shall evaluate a managing entity's performance on the first and  
22 second anniversaries of the date of the management contract. If the  
23 evaluation fails to demonstrate improvement as negotiated under the  
24 contract by the first anniversary of the date of the management  
25 contract, the district may terminate the management contract, with  
26 the commissioner's consent, for nonperformance or breach of  
27 contract and select another provider from an approved list provided

1 by the commissioner. If the evaluation fails to demonstrate  
2 significant improvement, as determined by the commissioner, by the  
3 second anniversary of the date of the management contract, the  
4 district shall terminate the management contract and select another  
5 provider from an approved list provided by the commissioner or  
6 resume operation of the campus if approved by the commissioner. If  
7 the commissioner approves the district's operation of the campus,  
8 the commissioner shall assign a technical assistance team to assist  
9 the campus.

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

15 (j) Each campus operated by a managing entity under this  
16 section is subject to this chapter in the same manner as any other  
17 campus in the district.

18 (k) The commissioner may adopt rules necessary to implement  
19 this section.

20 (l) With respect to the management of a campus under this  
21 section:

22 (1) a managing entity is considered to be a  
23 governmental body for purposes of Chapters 551 and 552, Government  
24 Code; and

25 (2) any requirement in Chapter 551 or 552, Government  
26 Code, that applies to a school district or the board of trustees of  
27 a school district applies to a managing entity.

1       Sec. 39.1327. REVIEW OF SANCTIONS FOR CAMPUSES SERVING  
2 RESIDENTIAL FACILITIES. (a) A school district or public charter  
3 district may petition the commissioner to review an academically  
4 unacceptable rating assigned to a campus if the campus  
5 predominantly served students residing in a residential facility  
6 during the rating period.

7       (b) If the commissioner determines that the basis for  
8 identifying the campus as academically unacceptable was limited to  
9 a condition that was not related to the educational purpose of the  
10 residential facility, the commissioner may take any of the  
11 following actions as the commissioner determines appropriate:

12             (1) change, modify, or suspend the academically  
13 unacceptable rating; or

14             (2) impose any sanction otherwise authorized under  
15 Section 39.131 or 39.132.

16       (c) The commissioner may consider a factor other than a  
17 factor used to assign a rating in evaluating a campus under this  
18 section. The commissioner may assign a campus intervention team  
19 under Section 39.1321 at the expense of the school district or  
20 public charter district as provided by Section 39.134 to develop a  
21 long-term intervention plan to improve services for students.

22       (d) On a determination that a campus subject to this section  
23 is appropriately meeting the educational needs of its students, the  
24 commissioner may waive revocation of a public charter district for  
25 a period not to exceed two years. A waiver under this subsection  
26 may be extended for additional two-year periods based on subsequent  
27 evaluations of the campus.

1       (e) This section does not limit the commissioner's ability  
2 to sanction a public charter district for the performance of a  
3 campus subject to this section or any other law.

4       (f) A decision by the commissioner under this section is  
5 final and may not be appealed.

6       SECTION 2D.31. Section 39.133, Education Code, is amended  
7 to read as follows:

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

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

26       SECTION 2D.32. Subchapter G, Chapter 39, Education Code, is  
27 amended by adding Sections 39.1331, 39.1332, and 39.1333 to read as

1 follows:

2 Sec. 39.1331. ACQUISITION OF PROFESSIONAL SERVICES. In  
3 addition to other sanctions authorized under Sections 39.131 and  
4 39.132, the commissioner may order a school district or campus to  
5 acquire professional services at the expense of the district or  
6 campus to address the applicable financial, assessment, data  
7 quality, program, or governance deficiency. The commissioner's  
8 order may require the district or campus to:

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

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

15 Sec. 39.1332. CLOSURE OF SCHOOL DISTRICT OR CAMPUS. (a)  
16 The commissioner may revoke the accreditation of a school district  
17 and order the closure of the district or a campus, as appropriate,  
18 under the following circumstances:

19 (1) the commissioner is authorized to close the  
20 district or campus under Section 39.131(a)(10) or 39.1322(f);

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

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

27 (b) The commissioner shall issue an order of closure under

1 this section that includes provisions necessary for the  
2 continuation of the education of students enrolled in the district  
3 or campus, including annexation to one or more adjoining districts  
4 as provided by Section 13.054. An order of closure may:

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

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

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

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

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

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

1       (e) An open-enrollment charter school ordered closed under  
2 this section is not entitled to a separate hearing concerning the  
3 revocation or nonrenewal of the charter under Section 11A.108.

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

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

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

19       SECTION 2D.33. Section 39.134, Education Code, is amended  
20 to read as follows:

21       Sec. 39.134. COSTS PAID BY DISTRICT. The costs of providing  
22 a monitor, conservator, management team, [~~or special~~] campus  
23 intervention team, technical assistance team, managing entity  
24 under Section 39.1326, or service provider under Section 39.1331  
25 shall be paid by the district. If the district fails or refuses to  
26 pay the costs in a timely manner, the commissioner may:

27           (1) pay the costs using amounts withheld from any

1 funds to which the district is otherwise entitled; or

2 (2) recover the amount of the costs in the manner  
3 provided for recovery of an overallocation of state funds under  
4 Section 42.317 [~~42.258~~].

5 SECTION 2D.34. Subchapter G, Chapter 39, Education Code, is  
6 amended by adding Section 39.1371 to read as follows:

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

10 (b) The agency shall:

11 (1) monitor the progress of technical assistance teams  
12 and campus intervention teams appointed by the commissioner under  
13 this subchapter; and

14 (2) supervise the activities of the managing entities  
15 under Section 39.1326.

16 (c) The agency shall:

17 (1) establish by rule and publish school improvement  
18 objectives;

19 (2) advocate for the increased use of research-based  
20 effective practices; and

21 (3) coordinate campus improvement activities of the  
22 agency and regional education service centers.

23 (d) The commissioner may contract for services under this  
24 section.

25 SECTION 2D.35. Section 39.182(a), Education Code, as  
26 amended by S.B. No. 42, Acts of the 79th Legislature, Regular  
27 Session, 2005, is amended to read as follows:

1           (a) Not later than December 1 of each year, the agency shall  
2 prepare and deliver to the governor, the lieutenant governor, the  
3 speaker of the house of representatives, each member of the  
4 legislature, the Legislative Budget Board, and the clerks of the  
5 standing committees of the senate and house of representatives with  
6 primary jurisdiction over the public school system a comprehensive  
7 report covering the preceding school year and containing:

8           (1) an evaluation of the achievements of the state  
9 educational program in relation to the statutory goals for the  
10 public education system under Section 4.002;

11           (2) an evaluation of the status of education in the  
12 state as reflected by the academic excellence indicators adopted  
13 under Section 39.051;

14           (3) a summary compilation of the percentage of  
15 graduating students who attain scores on the secondary exit-level  
16 assessment instruments required under Section 39.023(c) that are  
17 equivalent to a passing score on the assessment instrument required  
18 under Section 51.3062;

19           (4) a summary compilation of overall student  
20 performance on academic skills assessment instruments required by  
21 Section 39.023 with the number and percentage of students exempted  
22 from the administration of those instruments and the basis of the  
23 exemptions, aggregated by grade level, subject area, campus, and  
24 district, with appropriate interpretations and analysis, and  
25 disaggregated by race, ethnicity, gender, and socioeconomic  
26 status;

27           (5) [~~4~~] a summary compilation of overall

1 performance of students placed in a disciplinary alternative  
2 education program established under Section 37.008 on academic  
3 skills assessment instruments required by Section 39.023 with the  
4 number of those students exempted from the administration of those  
5 instruments and the basis of the exemptions, aggregated by  
6 district, grade level, and subject area, with appropriate  
7 interpretations and analysis, and disaggregated by race,  
8 ethnicity, gender, and socioeconomic status;

9       (6) [~~(5)~~] a summary compilation of the progress  
10 [~~overall performance~~] of students at risk of dropping out of  
11 school, as defined by Section 29.081(d), including information  
12 described by the academic excellence indicators under Sections  
13 39.051(b)(7), (8), (10), and (11), provided statewide and  
14 aggregated by district, on academic skills assessment instruments  
15 required by Section 39.023 and any other assessment instrument  
16 required by the commissioner [~~with the number of those students~~  
17 ~~exempted from the administration of those instruments and the basis~~  
18 ~~of the exemptions, aggregated by district, grade level, and subject~~  
19 ~~area~~], with appropriate interpretations and analysis, and  
20 disaggregated by race, ethnicity, gender, and socioeconomic  
21 status;

22       (7) [~~(6)~~] an evaluation of the correlation between  
23 student grades and student performance on academic skills  
24 assessment instruments required by Section 39.023;

25       (8) [~~(7)~~] a statement of the dropout rate of students  
26 in grade levels 7 through 12, expressed in the aggregate and by  
27 grade level, and a statement of the completion rates of students for

1 grade levels 9 through 12;

2 (9) [~~(8)~~] a statement of:

3 (A) the completion rate of students who enter  
4 grade level 9 and graduate not more than four years later;

5 (B) the completion rate of students who enter  
6 grade level 9 and graduate, including students who require more  
7 than four years to graduate;

8 (C) the completion rate of students who enter  
9 grade level 9 and not more than four years later receive a high  
10 school equivalency certificate;

11 (D) the completion rate of students who enter  
12 grade level 9 and receive a high school equivalency certificate,  
13 including students who require more than four years to receive a  
14 certificate; and

15 (E) the number and percentage of all students who  
16 have not been accounted for under Paragraph (A), (B), (C), or (D);

17 (10) [~~(9)~~] a statement of the projected  
18 cross-sectional and longitudinal dropout rates for grade levels 9  
19 through 12 for the next five years, assuming no state action is  
20 taken to reduce the dropout rate;

21 (11) [~~(10)~~] a description of a systematic, measurable  
22 plan for reducing the projected cross-sectional and longitudinal  
23 dropout rates to five percent or less for the 1997-1998 school year;

24 (12) [~~(11)~~] a summary of the information required by  
25 Section 29.083 regarding grade level retention of students and  
26 information concerning:

27 (A) the number and percentage of students

1 retained; and

2 (B) the performance of retained students on  
3 assessment instruments required under Section 39.023(a);

4 (13) [~~(12)~~] information, aggregated by district type  
5 and disaggregated by race, ethnicity, gender, and socioeconomic  
6 status, on:

7 (A) the number of students placed in a  
8 disciplinary alternative education program established under  
9 Section 37.008;

10 (B) the average length of a student's placement  
11 in a disciplinary alternative education program established under  
12 Section 37.008;

13 (C) the academic performance of students on  
14 assessment instruments required under Section 39.023(a) during the  
15 year preceding and during the year following placement in a  
16 disciplinary alternative education program; and

17 (D) the dropout rates of students who have been  
18 placed in a disciplinary alternative education program established  
19 under Section 37.008;

20 (14) [~~(13)~~] a list of each school district or campus  
21 that does not satisfy performance standards, with an explanation of  
22 the actions taken by the commissioner to improve student  
23 performance in the district or campus and an evaluation of the  
24 results of those actions;

25 (15) [~~(14)~~] an evaluation of the status of the  
26 curriculum taught in public schools, with recommendations for  
27 legislative changes necessary to improve or modify the curriculum

1 required by Section 28.002;

2 (16) [~~(15)~~] a description of all funds received by and  
3 each activity and expenditure of the agency;

4 (17) [~~(16)~~] a summary and analysis of the  
5 instructional expenditures ratios and instructional employees  
6 ratios of school districts computed under Section 44.0071;

7 (18) [~~(17)~~] a summary of the effect of deregulation,  
8 including exemptions and waivers granted under Section 7.056 [~~or~~  
9 ~~39.112~~];

10 (19) [~~(18)~~] a statement of the total number and length  
11 of reports that school districts and school district employees must  
12 submit to the agency, identifying which reports are required by  
13 federal statute or rule, state statute, or agency rule, and a  
14 summary of the agency's efforts to reduce overall reporting  
15 requirements;

16 (20) [~~(19)~~] a list of each school district that is not  
17 in compliance with state special education requirements,  
18 including:

19 (A) the period for which the district has not  
20 been in compliance;

21 (B) the manner in which the agency considered the  
22 district's failure to comply in determining the district's  
23 accreditation status; and

24 (C) an explanation of the actions taken by the  
25 commissioner to ensure compliance and an evaluation of the results  
26 of those actions;

27 (21) an evaluation of public charter districts,

1 including:

2 (A) the academic performance of students  
3 enrolled in public charter districts, disaggregated by race,  
4 ethnicity, gender, and socioeconomic status;

5 (B) the costs of instruction, administration,  
6 and transportation incurred by public charter districts; and

7 (C) other issues, as determined by the  
8 commissioner [~~(20) a comparison of the performance of~~  
9 ~~open-enrollment charter schools and school districts on the~~  
10 ~~academic excellence indicators specified in Section 39.051(b) and~~  
11 ~~accountability measures adopted under Section 39.051(g), with a~~  
12 ~~separately aggregated comparison of the performance of~~  
13 ~~open-enrollment charter schools predominantly serving students at~~  
14 ~~risk of dropping out of school, as defined by Section 29.081(d),~~  
15 ~~with the performance of school districts];~~

16 (22) [~~(21)~~] a summary of the information required by  
17 Section 38.0141 regarding student health and physical activity from  
18 each school district;

19 (23) a statement of the percentage of students scoring  
20 at the proficient and advanced levels on the National Assessment of  
21 Educational Progress; and

22 (24) [~~(22)~~] any additional information considered  
23 important by the commissioner or the State Board of Education.

24 SECTION 2D.36. Section 39.182(b), Education Code, is  
25 amended to read as follows:

26 (b) In reporting the information required by Subsection  
27 (a)(4) or (5) [~~(a)(3) or (4)~~], the agency may separately aggregate

1 the performance data of students enrolled in a special education  
2 program under Subchapter A, Chapter 29, or a bilingual education or  
3 special language program under Subchapter B, Chapter 29.

4 SECTION 2D.37. Section 39.182, Education Code, is amended  
5 by adding Subsections (b-1) and (b-2) to read as follows:

6 (b-1) The report must include an assessment of the impact of  
7 the performance-based grant system developed under Subchapter E,  
8 Chapter 7, on student academic performance, including:

9 (1) an analysis of performance and spending  
10 information relating to grants administered by the agency; and

11 (2) recommendations on any statutory changes needed  
12 for the agency to more effectively administer grant programs,  
13 including recommendations on whether to eliminate or modify  
14 inefficient grant programs, expand effective grant programs, or  
15 consolidate similar grant programs to maximize the effectiveness  
16 and efficiencies of those programs.

17 (b-2) Subsection (b-1) applies beginning January 1, 2009.  
18 This subsection expires February 1, 2009.

19 SECTION 2D.38. Section 39.183, Education Code, is amended  
20 to read as follows:

21 Sec. 39.183. REGIONAL AND DISTRICT LEVEL REPORT. The  
22 agency shall prepare and deliver to the governor, the lieutenant  
23 governor, the speaker of the house of representatives, each member  
24 of the legislature, the Legislative Budget Board, and the clerks of  
25 the standing committees of the senate and house of representatives  
26 with primary jurisdiction over the public school system a regional  
27 and district level report covering the preceding two school years

1 and containing:

2 (1) a summary of school district compliance with the  
3 student/teacher ratios and class-size limitations prescribed by  
4 Sections 25.111 and 25.112, including:

5 (A) the number of campuses and classes at each  
6 campus granted an exception from Section 25.112; and

7 (B) the performance rating under Subchapter D of  
8 each campus granted an exception from Section 25.112;

9 (2) a summary of the exemptions and waivers granted to  
10 school districts under Section 7.056 [~~or 39.112~~] and a review of the  
11 effectiveness of each campus or district following deregulation;

12 (3) an evaluation of the performance of the system of  
13 regional education service centers based on the indicators adopted  
14 under Section 8.101 and client satisfaction with services provided  
15 under Subchapter B, Chapter 8;

16 (4) an evaluation of accelerated instruction programs  
17 offered under Section 28.006, including an assessment of the  
18 quality of such programs and the performance of students enrolled  
19 in such programs; and

20 (5) the number of classes at each campus that are  
21 currently being taught by individuals who are not certified in the  
22 content areas of their respective classes.

23 SECTION 2D.39. Section 39.202(a), Education Code, is  
24 amended to read as follows:

25 (a) The commissioner shall, in consultation with the  
26 comptroller, develop and implement a financial accountability  
27 rating system for school districts in this state that distinguishes

1 among districts' varying levels of financial performance and  
2 includes procedures for:

3 (1) providing additional transparency to public  
4 education finance; and

5 (2) enabling the commissioner and district  
6 administrators to provide meaningful financial oversight and  
7 improvement.

8 SECTION 2D.40. Section 39.203(b), Education Code, is  
9 amended to read as follows:

10 (b) The annual financial management report must include:

11 (1) a description of the district's financial  
12 management performance based on a comparison, provided by the  
13 agency, of the district's performance on the standards [~~indicators~~]  
14 adopted under Section 39.202 [~~39.202(b)~~] to:

15 (A) state-established standards; and

16 (B) the district's previous performance on the  
17 standards adopted under Section 39.202 [~~indicators~~]; [~~and~~]

18 (2) a description of the district's actual  
19 expenditures for each campus and any difference between those  
20 campus expenditures and the foundation school program allotments  
21 received for the campus; and

22 (3) any descriptive information required by the  
23 commissioner.

24 SECTION 2D.41. Subchapter I, Chapter 39, Education Code, is  
25 amended by adding Section 39.205 to read as follows:

26 Sec. 39.205. REPORT TO LEGISLATURE. (a) Not later than  
27 September 1, 2006, the agency shall submit a report to the

1 legislature on the status of the financial accountability system  
2 that recommends to the legislature methods for linking school  
3 district financial management performance and academic  
4 performance.

5 (b) This section expires September 2, 2006.

6 SECTION 2D.42. (a) Not later than the 2007-2008 school  
7 year, the Texas Education Agency shall collect information  
8 concerning:

9 (1) incremental growth in student achievement for  
10 purposes of Section 39.051(b)(8), Education Code, as amended by  
11 this Act; and

12 (2) the measure of progress toward English language  
13 proficiency for purposes of Section 39.051(b)(15), Education Code,  
14 as added by this Act.

15 (b) Not later than the 2008-2009 school year, the Texas  
16 Education Agency shall include, in evaluating the performance of  
17 school districts, campuses, and public charter districts under  
18 Subchapter D, Chapter 39, Education Code:

19 (1) incremental growth in student achievement under  
20 Section 39.051(b)(8), Education Code, as amended by this Act; and

21 (2) the measure of progress toward English language  
22 proficiency under Section 39.051(b)(15), Education Code, as added  
23 by this Act.

24 SECTION 2D.43. The commissioner of education shall develop  
25 and implement the reporting procedures for:

26 (1) districts to prepare and distribute annual  
27 financial management reports under Section 39.203, Education Code,

1 as amended by this Act, beginning with the 2007-2008 school year;  
2 and

3 (2) campuses to provide financial information under  
4 Section 39.202, Education Code, as amended by this Act, beginning  
5 with the 2008-2009 school year.

6 PART E. INSTRUCTIONAL MATERIALS

7 SECTION 2E.01. Subchapter B, Chapter 7, Education Code, is  
8 amended by adding Section 7.030 to read as follows:

9 Sec. 7.030. REVIEW OF STATE-FUNDED AND FEDERALLY FUNDED  
10 GRANT PROGRAMS. (a) The agency shall conduct a review of  
11 state-funded and federally funded grant programs and incentives  
12 designed to improve student academic performance and shall actively  
13 determine the full extent to which funds awarded under those  
14 programs may be used to enhance or expand the use of technology in  
15 public schools. For purposes of removing barriers to and  
16 encouraging the use of technology in public schools, the  
17 commissioner may, as appropriate, issue a waiver to one or more  
18 schools.

19 (b) Not later than December 1, 2006, the agency shall submit  
20 a report regarding the findings of the review conducted under this  
21 section to the legislature. The report must include a summary of  
22 promising practices for current grant programs that leverage  
23 technology. This section expires January 15, 2007.

24 SECTION 2E.02. Section 7.055(b)(28), Education Code, is  
25 amended to read as follows:

26 (28) The commissioner shall perform duties relating to  
27 the funding, adoption, and purchase of instructional materials

1 [~~textbooks~~] under Chapter 31.

2 SECTION 2E.03. Section 7.056(f), Education Code, is amended  
3 to read as follows:

4 (f) A school district or campus that is required to develop  
5 and implement a student achievement improvement plan under Section  
6 39.131 or 39.132 may receive an exemption or waiver under this  
7 section from any law or rule other than:

8 (1) a prohibition on conduct that constitutes a  
9 criminal offense;

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

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

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

15 (B) educator rights and benefits under  
16 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter  
17 A, Chapter 22; or

18 (4) [~~textbook~~] selection of instructional materials  
19 under Chapter 31.

20 SECTION 2E.04. Section 7.102(c)(23), Education Code, is  
21 amended to read as follows:

22 (23) The board shall approve [~~adopt~~] and purchase or  
23 license instructional materials [~~textbooks~~] as provided by Chapter  
24 31 and adopt rules required by that chapter.

25 SECTION 2E.05. Sections 7.108(a) and (c), Education Code,  
26 are amended to read as follows:

27 (a) A person interested in selling bonds of any type or a

1 person engaged in manufacturing, shipping, selling, or advertising  
2 instructional materials [~~textbooks~~] or otherwise connected with  
3 the instructional material [~~textbook~~] business commits an offense  
4 if the person makes or authorizes a political contribution to or  
5 takes part in, directly or indirectly, the campaign of any person  
6 seeking election to or serving on the board.

7 (c) In this section:

8 (1) "Instructional material" has the meaning assigned  
9 by Section 31.002.

10 (2) "Political contribution" has the meaning assigned  
11 by Section 251.001, Election Code.

12 [~~(2) "Textbook" has the meaning assigned by Section~~  
13 ~~31.002.~~]

14 SECTION 2E.06. The heading to Section 7.112, Education  
15 Code, is amended to read as follows:

16 Sec. 7.112. REPRESENTATION OF [~~TEXTBOOK~~] PUBLISHER OF  
17 INSTRUCTIONAL MATERIALS BY FORMER MEMBER OF BOARD.

18 SECTION 2E.07. Section 7.112(a), Education Code, is amended  
19 to read as follows:

20 (a) A former member of the State Board of Education who is  
21 employed by or otherwise receives compensation from a [~~textbook~~]  
22 publisher of instructional materials may not, before the second  
23 anniversary of the date on which the person last served as a member  
24 of the State Board of Education:

25 (1) confer with a member of the board of trustees of a  
26 school district concerning instructional materials [~~a textbook~~]  
27 published by that [~~textbook~~] publisher; or

1           (2) appear at a meeting of the board of trustees on  
2 behalf of the [~~textbook~~] publisher.

3           SECTION 2E.08. Section 7.112(c)(2), Education Code, is  
4 amended to read as follows:

5           (2) "Instructional material" and "publisher"  
6 [~~"Publisher" and "textbook"~~] have the meanings assigned by Section  
7 31.002.

8           SECTION 2E.09. Section 11.158(b), Education Code, is  
9 amended to read as follows:

10          (b) The board may not charge fees for:

11           (1) instructional materials [~~textbooks~~], workbooks,  
12 laboratory supplies, or other supplies necessary for participation  
13 in any instructional course except as authorized under this code;

14           (2) field trips required as a part of a basic education  
15 program or course;

16           (3) any specific form of dress necessary for any  
17 required educational program or diplomas;

18           (4) the payment of instructional costs for necessary  
19 school personnel employed in any course or educational program  
20 required for graduation;

21           (5) library materials [~~books~~] required to be used for  
22 any educational course or program, other than fines for lost,  
23 damaged, or overdue materials [~~books~~];

24           (6) admission to any activity the student is required  
25 to attend as a prerequisite to graduation;

26           (7) admission to or examination in any required  
27 educational course or program; or

1 (8) lockers.

2 SECTION 2E.10. Section 11.164(a), Education Code, is  
3 amended to read as follows:

4 (a) The board of trustees of each school district shall  
5 limit redundant requests for information and the number and length  
6 of written reports that a classroom teacher is required to prepare.  
7 A classroom teacher may not be required to prepare any written  
8 information other than:

9 (1) any report concerning the health, safety, or  
10 welfare of a student;

11 (2) a report of a student's grade on an assignment or  
12 examination;

13 (3) a report of a student's academic progress in a  
14 class or course;

15 (4) a report of a student's grades at the end of each  
16 grade reporting period;

17 (5) a ~~textbook~~ report on instructional materials;

18 (6) a unit or weekly lesson plan that outlines, in a  
19 brief and general manner, the information to be presented during  
20 each period at the secondary level or in each subject or topic at  
21 the elementary level;

22 (7) an attendance report;

23 (8) any report required for accreditation review;

24 (9) any information required by a school district that  
25 relates to a complaint, grievance, or actual or potential  
26 litigation and that requires the classroom teacher's involvement;  
27 or

1           (10) any information specifically required by law,  
2 rule, or regulation.

3           SECTION 2E.11. Section 19.007(e), Education Code, is  
4 amended to read as follows:

5           (e) The district may participate in the instructional  
6 materials [~~textbook~~] program under Chapter 31.

7           SECTION 2E.12. Sections 26.006(a) and (c), Education Code,  
8 are amended to read as follows:

9           (a) A parent is entitled to:

10           (1) review all teaching materials, instructional  
11 materials [~~textbooks~~], and other teaching aids used in the  
12 classroom of the parent's child; and

13           (2) review each test administered to the parent's  
14 child after the test is administered.

15           (c) A student's parent is entitled to request that the  
16 public school [~~district or open-enrollment charter school~~] the  
17 student attends allow the student to take home any instructional  
18 materials [~~textbook~~] used by the student. Subject to the  
19 availability of the instructional materials [~~a textbook~~], the  
20 [~~district or~~] school shall honor the request. A student who takes  
21 home instructional materials [~~a textbook~~] must return the  
22 instructional materials [~~textbook~~] to school at the beginning of  
23 the next school day if requested to do so by the student's teacher.  
24 In this subsection, "instructional material" [~~"textbook"~~] has the  
25 meaning assigned by Section 31.002.

26           SECTION 2E.13. Sections 28.002(c) and (h), Education Code,  
27 are amended to read as follows:

1 (c) The State Board of Education, with the direct  
2 participation of educators, parents, business and industry  
3 representatives, and employers shall by rule identify the essential  
4 knowledge and skills of each subject of the required curriculum  
5 that all students should be able to demonstrate and that will be  
6 used in evaluating instructional materials [~~textbooks~~] under  
7 Chapter 31 and addressed on the assessment instruments required  
8 under Subchapter B, Chapter 39. As a condition of accreditation,  
9 the board shall require each district to provide instruction in the  
10 essential knowledge and skills at appropriate grade levels.

11 (h) The State Board of Education and each school district  
12 shall foster the continuation of the tradition of teaching United  
13 States and Texas history and the free enterprise system in regular  
14 subject matter and in reading courses and in the adoption of  
15 instructional materials [~~textbooks~~]. A primary purpose of the  
16 public school curriculum is to prepare thoughtful, active citizens  
17 who understand the importance of patriotism and can function  
18 productively in a free enterprise society with appreciation for the  
19 basic democratic values of our state and national heritage.

20 SECTION 2E.14. The heading to Chapter 31, Education Code,  
21 is amended to read as follows:

22 CHAPTER 31. INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

23 SECTION 2E.15. Section 31.001, Education Code, is amended  
24 to read as follows:

25 Sec. 31.001. FREE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].  
26 Instructional materials [~~Textbooks~~] selected for use in the public  
27 schools shall be furnished without cost to the students attending

1 those schools in accordance with Section 3(b), Article VII, Texas  
2 Constitution.

3 SECTION 2E.16. Sections 31.002(1), (2), and (4), Education  
4 Code, are amended to read as follows:

5 (1) "Instructional material" [~~"Electronic textbook"~~]  
6 means a medium or a combination of media for conveying information  
7 to a student. The term includes a book, supplementary materials, a  
8 combination of a book, workbook, supplementary materials, computer  
9 software, [~~interactive videodisc,~~] magnetic media, DVD, CD-ROM,  
10 computer courseware, on-line services, or an electronic medium, or  
11 other means of conveying information to the student or otherwise  
12 contributing to the learning process through electronic means.

13 (2) "Publisher" means a person who prepares  
14 instructional materials for sale or distribution to educational  
15 institutions. The term includes an on-line service or a developer  
16 or distributor of [~~an~~] electronic instructional materials  
17 [~~textbook~~].

18 (4) "Technological equipment" means hardware, a  
19 device, or equipment necessary for:

20 (A) instructional use in the classroom,  
21 including to gain access to or enhance the use of [~~an~~] electronic  
22 instructional materials [~~textbook~~]; or

23 (B) professional use by a classroom teacher.

24 SECTION 2E.17. Section 31.003, Education Code, is amended  
25 to read as follows:

26 Sec. 31.003. RULES. The State Board of Education shall  
27 [~~may~~] adopt rules, consistent with this chapter, for the approval

1 ~~[adoption]~~, requisition, distribution, care, use, and disposal of  
2 instructional materials ~~[textbooks]~~.

3 SECTION 2E.18. The heading to Subchapter B, Chapter 31,  
4 Education Code, is amended to read as follows:

5 SUBCHAPTER B. STATE APPROVAL

6 ~~[FUNDING, ADOPTION, AND PURCHASE]~~

7 SECTION 2E.19. Section 31.021, Education Code, as amended  
8 by S.B. No. 151, Acts of the 79th Legislature, Regular Session,  
9 2005, is amended to read as 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 Education  
14 from the available school fund, computed in accordance with this  
15 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 sufficient  
22 for the instructional materials allotment to provide public ~~[board,~~  
23 ~~school districts, and open-enrollment charter]~~ schools with the  
24 funds required to purchase and distribute the necessary  
25 instructional materials ~~[textbooks]~~ for the use of the students of  
26 this state for the following school year. The board shall determine  
27 the amount of the available school fund to set aside for the state

1 instructional materials [~~textbook~~] fund based on the amount of the  
2 instructional materials and technology allotment under Section  
3 32.005(a). [~~+~~

4 [~~(1) a report by the commissioner issued on July 1 or,~~  
5 ~~if that date is a Saturday or Sunday, on the following Monday,~~  
6 ~~stating the amount of unobligated money in the fund,~~

7 [~~(2) the commissioner's estimate, based on textbooks~~  
8 ~~selected under Section 31.101 and on attendance reports submitted~~  
9 ~~under Section 31.103 by school districts and open-enrollment~~  
10 ~~charter schools, of the amount of funds, in addition to funds~~  
11 ~~reported under Subdivision (1), that will be necessary for purchase~~  
12 ~~and distribution of textbooks for the following school year, and~~

13 [~~(3) any amount the board determines should be set~~  
14 ~~aside for emergency purposes caused by unexpected increases in~~  
15 ~~attendance.]~~

16 (c) This subsection applies only if the pilot project  
17 established under Section 54.2161 is implemented[, ~~and expires~~  
18 ~~August 15, 2009~~]. In addition to the amount set aside under  
19 Subsection (b), the State Board of Education shall annually set  
20 aside out of the available school fund an amount sufficient for each  
21 school district with one or more students entitled to free  
22 textbooks under the pilot project established under Section 54.2161  
23 to pay the costs of those textbooks as required by Section 31.031  
24 for the following school year. The board shall determine the amount  
25 of the available school fund to set aside for the state  
26 instructional materials [~~textbook~~] fund for purposes of this  
27 subsection based on the commissioner's estimate of the amount that

1 will be necessary to pay the costs of textbooks as required under  
2 Section 31.031. This subsection expires August 31, 2006.

3 (d) Money transferred to the state instructional materials  
4 ~~[textbook]~~ fund remains in the fund until spent and does not lapse  
5 to the state at the end of the fiscal year.

6 ~~[(c) All necessary expenses incurred under this chapter~~  
7 ~~shall be paid from the state textbook fund on invoices approved by~~  
8 ~~the commissioner.]~~

9 SECTION 2E.20. Subchapter B, Chapter 31, Education Code, is  
10 amended by adding Sections 31.0251, 31.0252, and 31.0253 to read as  
11 follows:

12 Sec. 31.0251. SUBMISSION OF INSTRUCTIONAL MATERIALS;  
13 REVIEW. (a) A publisher may, in accordance with State Board of  
14 Education rule, submit an instructional material to the board for  
15 approval. As part of a submission, a publisher must include a  
16 statement that identifies in writing the essential knowledge and  
17 skills for a subject and grade level as determined by the board  
18 under Section 28.002 that the instructional material covers.

19 (b) The board shall:

20 (1) review each instructional material submitted for  
21 approval as provided by Section 31.0253;

22 (2) determine whether the instructional material  
23 covers the essential knowledge and skills identified in the  
24 submission; and

25 (3) identify the degree to which the instructional  
26 material complies with the essential knowledge and skills.

27 Sec. 31.0252. CORRECTION OF FACTUAL ERRORS. (a) The State

1 Board of Education shall adopt rules authorizing the imposition of  
2 an administrative penalty in the manner provided by Section 31.151  
3 against a publisher who knowingly fails to promptly correct any  
4 factual errors discovered by the board in the instructional  
5 materials submitted by the publisher.

6 (b) In setting the amount of any penalty to be imposed under  
7 this section, the board shall consider the stage of the  
8 instructional materials review and approval process at which the  
9 failure occurs and set progressively higher penalties for failures  
10 that occur later in the process.

11 Sec. 31.0253. APPROVAL BY STATE BOARD OF EDUCATION. (a)  
12 The State Board of Education shall meet biannually to approve  
13 instructional materials submitted under Section 31.0251. The board  
14 must approve or reject each submitted instructional material not  
15 later than the second biannual meeting held for the purpose of  
16 approving instructional materials under this section after the date  
17 the instructional material was submitted.

18 (b) By majority vote, the board shall approve an  
19 instructional material submitted under Section 31.0251 unless the  
20 board determines, based on the board's own review, that the  
21 instructional material does not contain the essential knowledge and  
22 skills identified by the publisher in the submission. The board  
23 shall identify the essential knowledge and skills for a subject and  
24 grade level that an approved instructional material covers.

25 (c) Each approved instructional material must be free from  
26 factual errors.

27 (d) For each subject and grade level, the board shall list

1 the approved instructional materials. The board shall  
2 periodically:

3 (1) review each list of approved instructional  
4 materials; and

5 (2) by majority vote, remove approved instructional  
6 materials that the board determines no longer cover the essential  
7 knowledge and skills.

8 SECTION 2E.21. Sections 31.026-31.030, Education Code, are  
9 amended to read as follows:

10 Sec. 31.026. CONTRACT; PRICE. (a) The Department of  
11 Information Resources may [~~State Board of Education shall~~] execute  
12 a contract[+]

13 [~~(1)~~] for the purchase or licensing of each approved  
14 instructional material. The commissioner, with the assistance of  
15 the Department of Information Resources, the State Board of  
16 Education, and the office of the attorney general, shall develop  
17 model contracts that may be used by public schools for the purchase  
18 or licensing of instructional materials under this chapter [~~adopted~~  
19 ~~textbook other than an electronic textbook; and~~

20 [~~(2) for the purchase or licensing of each adopted~~  
21 ~~electronic textbook~~].

22 (b) A contract for the purchase or licensing of  
23 instructional materials must require the publisher to provide all  
24 of the approved instructional materials [~~the number of textbooks~~]  
25 required by public schools [~~school districts~~] in this state for the  
26 term of the contract[, ~~which must coincide with the board's~~  
27 ~~adoption cycle~~].

1 (c) As applicable, a contract must provide for the purchase  
2 or licensing of instructional materials [~~a textbook~~] at a  
3 [~~specific~~] price determined through negotiation between the  
4 publisher and the Department of Information Resources or the public  
5 school, as applicable, that does [~~, which may~~] not exceed the lowest  
6 price paid by any other state or any school or school district. The  
7 price must be fixed for the term of the contract.

8 (d) The Department of Information Resources shall execute a  
9 blanket purchase order with the publisher of an approved  
10 instructional material. A school district may requisition  
11 instructional materials under the purchase order.

12 (e) The agency and the Department of Information Resources  
13 shall enter into an interagency contract specifying each agency's  
14 duties regarding the purchasing and licensing of instructional  
15 materials.

16 (f) The contract may allow the publisher of an approved  
17 instructional material to update the material as provided by  
18 Section 31.033.

19 Sec. 31.027. INFORMATION TO PUBLIC SCHOOLS [~~SCHOOL~~  
20 ~~DISTRICTS~~]; SAMPLE COPIES. (a) A publisher shall provide each  
21 public school [~~district and open-enrollment charter school~~] with  
22 information that fully describes each of the publisher's approved  
23 instructional materials. [~~adopted textbooks. On request of a~~  
24 ~~school district, a publisher shall provide a sample copy of an~~  
25 ~~adopted textbook.~~]

26 (b) A publisher shall provide at least two sample copies of  
27 each approved instructional material [~~adopted textbook~~] to be

1 maintained at each regional education service center.

2 Sec. 31.028. SPECIAL INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

3 (a) The State Board of Education may provide for [~~purchase~~] special  
4 instructional materials [~~textbooks~~] for the education of blind and  
5 visually impaired students in public schools. In addition, for a  
6 teacher who is blind or visually impaired, the board shall provide a  
7 teacher's edition in Braille or large type, as requested by the  
8 teacher, for each printed instructional material [~~textbook~~] the  
9 teacher uses in the instruction of students. The printed teacher  
10 edition must be available at the same time the printed student  
11 instructional materials [~~textbooks~~] become available.

12 (b) The publisher of an approved printed instructional  
13 material [~~adopted textbook~~] shall provide the agency with  
14 computerized [~~textbook~~] files for the production of Braille  
15 instructional materials [~~textbooks~~] or other versions of  
16 instructional materials [~~textbooks~~] to be used by students with  
17 disabilities, on request of the State Board of Education. A  
18 publisher shall arrange the computerized [~~textbook~~] files in one of  
19 several optional formats specified by the State Board of Education.

20 (c) The board shall require electronic instructional  
21 materials submitted for approval under Section 31.0251 to comply  
22 with the standards established under Section 508, Rehabilitation  
23 Act of 1973 (29 U.S.C. Section 794d) [~~may also enter into agreements~~  
24 ~~providing for the acceptance, requisition, and distribution of~~  
25 ~~special textbooks and instructional aids pursuant to 20 U.S.C.~~  
26 ~~Section 101 et seq.~~] for use by students enrolled in:

27 (1) public schools; or

1 (2) private nonprofit schools, if state funds, other  
2 than for administrative costs, are not involved.

3 (d) In this section:

4 (1) "Blind or visually impaired student" includes any  
5 student whose visual acuity is impaired to the extent that the  
6 student is unable to read the text [~~print~~] in [~~a~~] regularly approved  
7 instructional materials [~~adopted textbook~~] used in the student's  
8 class.

9 (2) "Special instructional materials" [~~textbook~~]  
10 means instructional materials [~~a textbook~~] in Braille, large type  
11 or any other medium or any apparatus that conveys information to a  
12 student or otherwise contributes to the learning process.

13 Sec. 31.029. BILINGUAL INSTRUCTIONAL MATERIALS  
14 [~~TEXTBOOKS~~]. The board shall approve instructional materials  
15 [~~purchase or otherwise acquire textbooks~~] for use in bilingual  
16 education classes.

17 Sec. 31.030. USED INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The  
18 State Board of Education shall adopt rules to ensure that used  
19 instructional materials [~~textbooks~~] sold to public schools [~~school~~  
20 ~~districts and open-enrollment charter schools~~] are not sample  
21 copies that contain factual errors. The rules may provide for the  
22 imposition of an administrative penalty in accordance with Section  
23 31.151 against a seller of used instructional materials [~~textbooks~~]  
24 who knowingly violates this section.

25 SECTION 2E.22. Section 31.031(b), Education Code, as added  
26 by S.B. No. 151, Acts of the 79th Legislature, Regular Session,  
27 2005, is amended to read as follows:

1 (b) From the amount set aside by the State Board of  
2 Education under Section 31.021(c) or allocated to a school district  
3 under Section 32.005(c), the school district that a student  
4 entitled to free textbooks under the pilot project established by  
5 Section 54.2161 attends shall pay the costs of each textbook the  
6 student requires for a course described by Section 54.2161(b)(2).

7 SECTION 2E.23. Subchapter B, Chapter 31, Education Code, is  
8 amended by adding Sections 31.032 and 31.033 to read as follows:

9 Sec. 31.032. SUBSCRIPTION-BASED ELECTRONIC INSTRUCTIONAL  
10 MATERIALS. The publisher of an approved electronic instructional  
11 material may offer the material to public schools on an annual  
12 subscription basis.

13 Sec. 31.033. UPDATING INSTRUCTIONAL MATERIALS. The  
14 publisher of an approved instructional material may, under the  
15 terms of a contract under Section 31.026, update the instructional  
16 material. The State Board of Education by rule shall provide for an  
17 expedited review process to determine the extent to which an  
18 updated instructional material:

19 (1) is aligned with the essential knowledge and skills  
20 for the subject and grade level; and

21 (2) does not contain factual errors.

22 SECTION 2E.24. Subchapter C, Chapter 31, Education Code, is  
23 amended by adding Sections 31.1012 and 31.1013 to read as follows:

24 Sec. 31.1012. LOCAL SELECTION AND PURCHASE. A school  
25 district shall:

26 (1) select the instructional materials to be used by  
27 the district; and

1           (2) using funds allotted under Section 32.005 or other  
2 funds that may be used for the purpose, purchase those materials:

3                   (A) directly from the publisher of the materials;  
4 or

5                   (B) through the Department of Information  
6 Resources, if the materials have been approved by the State Board of  
7 Education.

8           Sec. 31.1013. CERTIFICATION OF PROVISION OF INSTRUCTIONAL  
9 MATERIALS. Each school district shall annually certify to the  
10 agency that, for each subject in the required curriculum and each  
11 grade level, the district provides each student with instructional  
12 materials that are aligned with the essential knowledge and skills  
13 adopted by the State Board of Education for that subject and grade  
14 level.

15           SECTION 2E.25. Section 31.102, Education Code, is amended  
16 to read as follows:

17           Sec. 31.102. TITLE AND CUSTODY. (a) Each instructional  
18 material [~~textbook~~] purchased as provided by this chapter is the  
19 property of this state.

20           (b) Subsection (a) applies to an electronic instructional  
21 material [~~textbook~~] only to the extent of any applicable licensing  
22 agreement.

23           (c) The board of trustees of a school district [~~or the~~  
24 ~~governing body of an open-enrollment charter school~~] is the legal  
25 custodian of instructional materials [~~textbooks~~] purchased as  
26 provided by this chapter for the district [~~or school~~]. The board of  
27 trustees shall distribute instructional materials [~~textbooks~~] to

1 students in the manner that the board [~~or governing body~~]  
 2 determines is most effective and economical.

3 SECTION 2E.26. Sections 31.104-31.106, Education Code, are  
 4 amended to read as follows:

5 Sec. 31.104. DISTRIBUTION AND HANDLING. (a) The board of  
 6 trustees of a school district [~~or the governing body of an~~  
 7 ~~open-enrollment charter school~~] may delegate to an employee the  
 8 authority to requisition, distribute, and manage the inventory of  
 9 instructional materials [~~textbooks~~] in a manner consistent with  
 10 this chapter and rules adopted under this chapter.

11 (b) A school district [~~or open-enrollment charter school~~]  
 12 may order replacements for instructional materials [~~textbooks~~]  
 13 that have been lost or damaged directly from[+]

14 [~~(1) the textbook depository; or~~

15 [~~(2)~~] the [~~textbook~~] publisher of the instructional  
 16 materials [~~or manufacturer if the textbook publisher or~~  
 17 ~~manufacturer does not have a designated textbook depository in this~~  
 18 ~~state under Section 31.151(a)(6)(B)] .~~

19 (c) Each instructional material [~~textbook~~] must state that  
 20 the instructional material [~~textbook~~] is the property of or is  
 21 licensed to this state, as appropriate. The board may require the  
 22 publisher of a textbook that must be returned by a student under  
 23 Subsection (d) to place a bar code with a unique identifying number  
 24 on the textbook. Each instructional material [~~textbook~~], other  
 25 than an electronic instructional material [~~textbook~~], must be  
 26 covered by the student under the direction of the teacher. A student  
 27 must return all instructional materials [~~textbooks~~] to the teacher

1 at the end of the school year or when the student withdraws from  
2 school.

3 (d) Each student, or the student's parent or guardian, is  
4 responsible for each instructional material [~~textbook~~] not  
5 returned by the student. A student who fails to return all  
6 instructional materials [~~textbooks~~] forfeits the right to free  
7 instructional materials [~~textbooks~~] until each instructional  
8 material [~~textbook~~] previously issued but not returned is paid for  
9 by the student, parent, or guardian. As provided by policy of the  
10 board of trustees [~~or governing body~~], a school district [~~or~~  
11 ~~open-enrollment charter school~~] may waive or reduce the payment  
12 requirement if the student is from a low-income family. The  
13 district [~~or school~~] shall allow the student to use instructional  
14 materials [~~textbooks~~] at school during each school day. If an  
15 instructional material [~~a textbook~~] is not returned or paid for,  
16 the district [~~or school~~] may withhold the student's records. A  
17 district [~~or school~~] may not, under this subsection, prevent a  
18 student from graduating, participating in a graduation ceremony, or  
19 receiving a diploma.

20 (e) The board of trustees of a school district may not  
21 require an employee of the district to pay for an instructional  
22 material [~~a textbook~~] or instructional technology that is stolen,  
23 misplaced, or not returned by a student.

24 Sec. 31.105. SALE, EXCHANGE, OR LOAN OF INSTRUCTIONAL  
25 MATERIALS [~~TEXTBOOKS~~]. (a) The board of trustees of a school  
26 district [~~or governing body of an open-enrollment charter school~~]  
27 may sell instructional materials [~~textbooks~~], other than

1 electronic instructional materials [~~textbooks~~], to a student or  
2 another school at a [~~the state contract~~] price determined by board  
3 rule. Money [~~The district shall send money~~] from the sale of  
4 instructional materials may be used only to purchase items that may  
5 be purchased lawfully using the allotment provided by Section  
6 32.005.

7 (b) Subject to any applicable licensing agreement, the  
8 board of trustees of a school district may:

9 (1) exchange instructional materials with another  
10 school district; or

11 (2) loan instructional materials to another school  
12 district [~~textbooks to the commissioner as required by the~~  
13 ~~commissioner. The commissioner shall deposit the money in the~~  
14 ~~state textbook fund~~].

15 Sec. 31.106. USE OF LOCAL FUNDS. A [~~In addition to any~~  
16 ~~textbook selected under this chapter, a~~] school district [~~or~~  
17 ~~open-enrollment charter school~~] may use local funds to purchase any  
18 instructional materials [~~textbooks~~].

19 SECTION 2E.27. The heading to Section 31.151, Education  
20 Code, is amended to read as follows:

21 Sec. 31.151. DUTIES OF PUBLISHERS [~~AND MANUFACTURERS~~].

22 SECTION 2E.28. Sections 31.151(a), (b), and (d), Education  
23 Code, are amended to read as follows:

24 (a) A publisher [~~or manufacturer~~] of instructional  
25 materials [~~textbooks~~]:

26 (1) shall furnish any instructional material  
27 [~~textbook~~] the publisher [~~or manufacturer~~] offers in this state[7]

1 at a price that does not exceed the lowest price at which the  
2 publisher offers that instructional material [~~textbook~~] for  
3 adoption or sale to any state, public school, or school district in  
4 the United States;

5 (2) shall automatically reduce the price of an  
6 instructional material [~~a textbook~~] sold for use in a public school  
7 [~~district or open-enrollment charter school~~] to the extent that the  
8 price is reduced elsewhere in the United States;

9 (3) shall provide any instructional material  
10 [~~textbook~~] or ancillary item free of charge in this state to the  
11 same extent that the publisher [~~or manufacturer~~] provides the  
12 instructional material [~~textbook~~] or ancillary item free of charge  
13 to any state, public school, or school district in the United  
14 States;

15 (4) shall guarantee that each copy of an instructional  
16 material [~~a textbook~~] sold in this state is at least equal in  
17 quality to copies of that instructional material [~~textbook~~] sold  
18 elsewhere in the United States and is free from factual error;

19 (5) may not become associated or connected with,  
20 directly or indirectly, any combination in restraint of trade in  
21 instructional materials [~~textbooks~~] or enter into any  
22 understanding or combination to control prices or restrict  
23 competition in the sale of instructional materials [~~textbooks~~] for  
24 use in this state;

25 (6) shall[+]

26 [~~(A) maintain a depository in this state or~~  
27 ~~arrange with a depository in this state to receive and fill orders~~

1 ~~for textbooks, other than on-line textbooks or on-line textbook~~  
2 ~~components, consistent with State Board of Education rules; or~~

3  [(B)] deliver instructional materials  
4 [~~textbooks~~] to a public school [~~district or open-enrollment charter~~  
5 ~~school~~] without a delivery charge to the school [~~district,~~  
6 ~~open-enrollment charter school,~~] or state [~~, if:~~

7  [(i) ~~the publisher or manufacturer does not~~  
8 ~~maintain or arrange with a depository in this state under Paragraph~~  
9 ~~(A) and the publisher's or manufacturer's textbooks and related~~  
10 ~~products are warehoused or otherwise stored less than 300 miles~~  
11 ~~from a border of this state; or~~

12  [(ii) ~~the textbooks are on-line textbooks~~  
13 ~~or on-line textbook components~~];

14                 (7) shall, at the time an order for instructional  
15 materials [~~textbooks~~] is acknowledged, provide to public [~~school~~  
16 ~~districts or open-enrollment charter~~] schools an accurate shipping  
17 date for instructional materials [~~textbooks~~] that are  
18 back-ordered;

19                 (8) shall guarantee delivery of instructional  
20 materials [~~textbooks~~] at least 10 business days before the opening  
21 day of school of the year for which the instructional materials  
22 [~~textbooks~~] are ordered if the instructional materials [~~textbooks~~]  
23 are ordered by a date specified in the sales contract; and

24                 (9) shall submit to the State Board of Education an  
25 affidavit certifying any instructional material [~~textbook~~] the  
26 publisher [~~or manufacturer~~] offers in this state to be free of  
27 factual errors at the time the publisher executes the contract

1 required by Section 31.026.

2 (b) The State Board of Education may impose a reasonable  
3 administrative penalty against a publisher [~~or manufacturer~~] who  
4 knowingly violates Subsection (a). The board shall provide for a  
5 hearing to be held to determine whether a penalty is to be imposed  
6 and, if so, the amount of the penalty. The board shall base the  
7 amount of the penalty on:

- 8 (1) the seriousness of the violation;  
9 (2) any history of a previous violation;  
10 (3) the amount necessary to deter a future violation;  
11 (4) any effort to correct the violation; and  
12 (5) any other matter justice requires.

13 (d) A penalty collected under this section shall be  
14 deposited to the credit of the state instructional materials  
15 [~~textbook~~] fund.

16 SECTION 2E.29. The heading to Section 31.152, Education  
17 Code, is amended to read as follows:

18 Sec. 31.152. ACCEPTING REBATE ON INSTRUCTIONAL MATERIALS  
19 [~~TEXTBOOKS~~].

20 SECTION 2E.30. Sections 31.152(a), (b), and (d), Education  
21 Code, are amended to read as follows:

22 (a) A school trustee, administrator, or teacher commits an  
23 offense if that person receives any commission or rebate on any  
24 instructional materials [~~textbooks~~] used in the schools with which  
25 the person is associated as a trustee, administrator, or teacher.

26 (b) A school trustee, administrator, or teacher commits an  
27 offense if the person accepts a gift, favor, or service that:

- 1           (1) is given to the person or the person's school;
- 2           (2) might reasonably tend to influence a trustee,
- 3 administrator, or teacher in the selection of instructional
- 4 materials [~~a textbook~~]; and
- 5           (3) could not be lawfully purchased with state
- 6 instructional materials funds [~~from the state textbook fund~~].

7           (d) In this section, "gift, favor, or service" does not

8 include:

- 9           (1) staff development, in-service, or teacher
- 10 training; or
- 11           (2) ancillary [~~instructional~~] materials, such as maps
- 12 or worksheets, that convey information to the student or otherwise
- 13 contribute to the learning process.

14           SECTION 2E.31. The heading to Section 31.153, Education

15 Code, is amended to read as follows:

16           Sec. 31.153. VIOLATION OF FREE INSTRUCTIONAL MATERIALS

17 [~~TEXTBOOK~~] LAW.

18           SECTION 2E.32. Section 31.153(a), Education Code, is

19 amended to read as follows:

20           (a) A person commits an offense if the person knowingly

21 violates any law providing for the purchase or distribution of free

22 instructional materials [~~textbooks~~] for the public schools.

23           SECTION 2E.33. Subchapter E, Chapter 31, Education Code, is

24 amended to read as follows:

25   SUBCHAPTER E. DISPOSITION OF

26   INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

27           Sec. 31.201. DISPOSITION OF INSTRUCTIONAL MATERIALS

1 ~~[TEXTBOOKS]~~. (a) The commissioner, with the approval of the State  
2 Board of Education, may provide for the disposition of:

3 (1) instructional materials ~~[textbooks]~~, other than  
4 electronic instructional materials ~~[textbooks]~~, that are no longer  
5 in acceptable condition to be used for instructional purposes; or

6 (2) discontinued instructional materials ~~[textbooks]~~,  
7 other than electronic instructional materials ~~[textbooks]~~.

8 (b) The commissioner, as provided by rules adopted by the  
9 State Board of Education, shall make available on request copies of  
10 discontinued instructional materials ~~[textbooks]~~, other than  
11 electronic instructional materials ~~[textbooks]~~, for use in  
12 libraries maintained in municipal and county jails and facilities  
13 of the institutional division of the Texas Department of Criminal  
14 Justice and other state agencies.

15 (c) The State Board of Education shall adopt rules under  
16 which a public school ~~[district or open-enrollment charter school]~~  
17 may donate discontinued instructional materials ~~[textbooks]~~, other  
18 than electronic instructional materials ~~[textbooks]~~, to a student,  
19 to an adult education program, or to a nonprofit organization.

20 SECTION 2E.34. Subchapter A, Chapter 32, Education Code, is  
21 amended by adding Section 32.0011 to read as follows:

22 Sec. 32.0011. ADVISORY COMMITTEE FOR TECHNOLOGY AND  
23 IMPLEMENTATION. (a) An advisory committee for technology and  
24 implementation is created to assist the agency and permit the  
25 agency to monitor changing technology in business, industry, and  
26 education.

27 (b) Members of the advisory committee are appointed as

1 follows:

2 (1) the commissioner, in consultation with the  
3 lieutenant governor, the speaker of the house of representatives,  
4 and the presiding officers of the standing committees of the senate  
5 and the house of representatives with jurisdiction over the agency,  
6 shall appoint members from the business and education communities  
7 and public members; and

8 (2) the State Board of Education may appoint one  
9 member.

10 (c) The advisory committee is subject to Chapters 551 and  
11 552, Government Code.

12 SECTION 2E.35. Sections 32.002 and 32.003, Education Code,  
13 are amended to read as follows:

14 Sec. 32.002. AUTHORITY OF PUBLIC SCHOOL [~~DISTRICT~~]. A  
15 public school [~~district~~] is not required by this subchapter to  
16 acquire or use technology that has been approved, selected, or  
17 contracted for by the State Board of Education or the commissioner.

18 Sec. 32.003. AUTHORITY OF COMMISSIONER TO CONTRACT. The  
19 commissioner may contract with developers of technology to supply  
20 technology for use by public schools [~~school districts~~] throughout  
21 this state.

22 SECTION 2E.36. Effective September 1, 2006, Section 32.005,  
23 Education Code, is amended by adding Subsection (d) to read as  
24 follows:

25 (d) This subsection applies only if the pilot project  
26 established under Section 54.2161 is implemented. In addition to  
27 amounts to which the district is entitled under Subsection (a), a

1 school district is entitled to an amount sufficient for the  
2 district to pay the costs of textbooks for students participating  
3 in the pilot project established under Section 54.2161. This  
4 subsection expires August 15, 2009.

5 SECTION 2E.37. Effective September 1, 2007, Section 32.005,  
6 Education Code, is amended to read as follows:

7 Sec. 32.005. INSTRUCTIONAL MATERIALS AND TECHNOLOGY  
8 ALLOTMENT. (a) Each school district is entitled to an allotment of  
9 \$150 [~~\$30~~] for each student in average daily attendance or a  
10 different amount for any year provided by appropriation.

11 (a-1) From the funds a school district receives under  
12 Subsection (a), the district shall use an amount equal to \$60 for  
13 each student in average daily attendance to fund targeted  
14 technology programs under Section 32.006. A school district shall  
15 use funds for targeted technology programs in a manner that allows  
16 each student and teacher assigned to a targeted campus, grade level  
17 on a campus, or specific educational program to benefit from a  
18 targeted technology program. The commissioner shall adopt rules  
19 concerning the use of funds under this subsection.

20 (b) An allotment under this section may be used only to:

21 (1) provide for the purchase by school districts of  
22 instructional materials [~~electronic textbooks~~] or technological  
23 equipment that contributes to student learning; and

24 (2) pay for training educational personnel directly  
25 involved in student learning in the appropriate use of electronic  
26 instructional materials [~~textbooks~~] and for providing for access to  
27 technological equipment for instructional use.

1 (c) The allotment under this section may be paid from:

2 (1) the telecommunications infrastructure fund under  
3 Subchapter C, Chapter 57, Utilities Code;

4 (2) the available school fund; [~~or~~]

5 (3) the state instructional materials fund under  
6 Section 31.021; or

7 (4) any other fund that may be used for that purpose  
8 and that is identified in the General Appropriations Act as the  
9 source of payment of the allotment.

10 SECTION 2E.38. Subchapter A, Chapter 32, Education Code, is  
11 amended by adding Section 32.006 to read as follows:

12 Sec. 32.006. TARGETED TECHNOLOGY PROGRAMS. (a) Each  
13 school district shall use funds designated for targeted technology  
14 programs under Section 32.005(a-1) in accordance with this section  
15 and in a manner consistent with the long-range plan developed by the  
16 State Board of Education under Section 32.001 and the district's  
17 own technology plan. A school district may use funds from other  
18 sources, including grants, donations, and state and federal funds,  
19 to provide targeted technology programs.

20 (b) A targeted technology program must provide for each  
21 student and teacher at a targeted campus or grade level on a  
22 targeted campus:

23 (1) the provision of:

24 (A) wireless electronic mobile computing devices  
25 or other technology devices that convey instruction;

26 (B) productivity software and hardware,  
27 including writing, computation, presentation, printing, and

1 communication tools;

2 (C) electronic learning software aligned with  
3 the essential knowledge and skills adopted by the State Board of  
4 Education under Section 28.002;

5 (D) library and other research tools;

6 (E) electronic assessment tools;

7 (F) electronic learning tools to improve  
8 communications among students, teachers, school administrators,  
9 parents, and the community;

10 (G) classroom management systems; and

11 (H) portable electronic instructional material  
12 devices capable of supporting instructional material for each  
13 subject in the foundation and enrichment curriculum;

14 (2) professional development for teachers to  
15 integrate the tools and solutions described by Subdivision (1); or

16 (3) the provision of other infrastructure,  
17 components, and technologies to support and enhance student  
18 performance through individual instruction programs.

19 (c) The Legislative Budget Board shall:

20 (1) conduct a biennial study of the cost of school  
21 district targeted technology programs, including the cost of  
22 implementing those programs on a statewide basis; and

23 (2) based on the results of the study required by  
24 Subdivision (1), make recommendations to the legislature before the  
25 beginning of each regular session of the legislature concerning  
26 statewide implementation of targeted technology programs.

27 (d) Each biennium, the Legislative Budget Board and the

1 commissioner shall jointly conduct a performance evaluation of  
2 school district targeted technology programs.

3 SECTION 2E.39. Subchapter A, Chapter 32, Education Code, is  
4 amended by adding Section 32.007 to read as follows:

5 Sec. 32.007. AGREEMENT WITH PUBLIC BROADCASTING STATION.

6 (a) The commissioner may enter into an agreement with a public  
7 broadcasting station, or a consortium of public broadcasting  
8 stations, under which the station or consortium will provide online  
9 instructional content and educational materials.

10 (b) From funds appropriated to the agency, the commissioner  
11 may, under an agreement entered into under Subsection (a), make  
12 instructional materials available through public broadcasting  
13 stations for purposes of instruction and professional development  
14 and for use in providing adult-based education.

15 (c) An agreement entered into under Subsection (a) must, to  
16 the extent practicable, provide access to instructional materials  
17 and online content to persons located in all parts of this state.

18 (d) For purposes of providing high-quality online  
19 instructional materials under this section, the commissioner may:

20 (1) use federal funds that may be used for those  
21 purposes; or

22 (2) use unexpended balances of funds appropriated to  
23 the agency for educational purposes, including adult education.

24 SECTION 2E.40. The heading to Section 32.154, Education  
25 Code, as added by Chapter 834, Acts of the 78th Legislature, Regular  
26 Session, 2003, is amended to read as follows:

27 Sec. 32.154. [~~DISTRICT OR~~] SCHOOL SELECTION.

1 SECTION 2E.41. Section 32.154, Education Code, as added by  
2 Chapter 834, Acts of the 78th Legislature, Regular Session, 2003,  
3 is amended by adding Subsection (a-1) and amending Subsection (b)  
4 to read as follows:

5 (a-1) In addition to school districts and schools selected  
6 before September 1, 2005, for participation in the technology  
7 immersion pilot project, the agency shall expand the program by  
8 selecting for participation in the pilot project for the 2005-2006  
9 and subsequent school years each high school to which a school  
10 district regularly assigns students who were enrolled in grade  
11 eight during the 2004-2005 school year at a district school  
12 participating in the pilot project. The agency shall establish  
13 criteria for expanding the pilot project under this subsection.

14 (b) Except as provided by Subsection (a-1), the ~~The~~ agency  
15 shall select the participating ~~[districts and]~~ schools for the  
16 pilot project based on each ~~[district's or]~~ school's need for the  
17 pilot project. In selecting participants, the agency shall  
18 consider the following criteria:

19 (1) whether the ~~[district or]~~ school has limited  
20 access to educational resources that could be improved through the  
21 use of wireless mobile computing devices and other technologies;

22 (2) whether the ~~[district or]~~ school has the following  
23 problems and whether those problems can be mitigated through the  
24 use of wireless mobile computing devices and other technologies:

25 (A) documented teacher shortages in critical  
26 areas;

27 (B) limited access to advanced placement

1 courses;

2 (C) low rates of satisfactory performance on  
3 assessment instruments under Subchapter B, Chapter 39; and

4 (D) high dropout rates;

5 (3) the [~~district's~~ or] school's readiness to  
6 incorporate technology into its classrooms;

7 (4) the possibility of obtaining a trained technology  
8 support staff and high-speed Internet services for the [~~district~~  
9 or] school; and

10 (5) the methods the [~~district~~ or] school will use to  
11 measure the progress of the pilot project in the [~~district~~ or]  
12 school in accordance with Section 32.155(e).

13 SECTION 2E.42. Section 32.156, Education Code, as added by  
14 Chapter 1216, Acts of the 78th Legislature, Regular Session, 2003,  
15 is amended to read as follows:

16 Sec. 32.156. ON-LINE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

17 (a) The agency may develop and adopt strategies for making  
18 instructional materials [~~textbooks~~] available through the portal  
19 or through other means in an electronic format as an alternative or  
20 supplement to traditional instructional materials [~~textbooks~~].

21 (b) In developing and adopting strategies under this  
22 section, the agency shall seek to achieve a system under which a  
23 student may, in addition to [~~a~~] traditional instructional materials  
24 [~~textbook~~], be provided with secure Internet access to each  
25 instructional material [~~textbook~~] used by the student.

26 SECTION 2E.43. Section 32.161(b), Education Code, is  
27 amended to read as follows:

1 (b) To the extent possible considering other statutory  
2 requirements, the commissioner and agency shall encourage the use  
3 of instructional materials [~~textbook funds~~] and technology  
4 allotment funds under Section 32.005 [~~31.021(b)(2)~~] in a manner  
5 that facilitates the development and use of the portal.

6 SECTION 2E.44. Subchapter B, Chapter 39, Education Code, is  
7 amended by adding Section 39.0232 to read as follows:

8 Sec. 39.0232. COMPUTER-ADAPTIVE ASSESSMENT. (a) To the  
9 extent practicable and appropriate, the agency shall provide for  
10 assessment instruments required under Section 39.023 to be designed  
11 so that those assessment instruments can be computer-adaptive.

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

15 (c) The commissioner may adopt rules to implement this  
16 section.

17 (d) As necessary to implement this section, the  
18 commissioner by rule may delay the release of assessment instrument  
19 questions and answer keys under Section 39.023(e).

20 (e) The agency shall implement this section not later than  
21 May 1, 2007. This subsection expires September 1, 2007.

22 SECTION 2E.45. Subchapter B, Chapter 44, Education Code, is  
23 amended by adding Section 44.046 to read as follows:

24 Sec. 44.046. PURCHASE OF INSTRUCTIONAL MATERIALS.  
25 Notwithstanding Section 44.031, a public school may purchase  
26 instructional materials, as defined by Section 31.002, under a  
27 blanket purchase order executed by the Department of Information

1 Resources under Section 31.026.

2 SECTION 2E.46. (a) This section applies to an  
3 instructional material, as that term is defined by Section 31.002,  
4 Education Code, as amended by this part, including an electronic  
5 instructional material, adopted by the State Board of Education  
6 before January 1, 2005.

7 (b) A contract for the purchase or licensing of an  
8 instructional material described by Subsection (a) of this section  
9 continues in effect as a state contract for the contract term, and  
10 the former law is continued in effect for that purpose.

11 SECTION 2E.47. (a) The State Board of Education shall set  
12 aside from the available school fund the amount of \$100 million to  
13 pay the cost of providing public school textbooks for those grade  
14 levels and subjects specified by Proclamation 2002.

15 (b) Notwithstanding any other law, it is the intent of the  
16 legislature that:

17 (1) money appropriated for the provision of public  
18 school textbooks by H.B. No. 1, Acts of the 79th Legislature, 1st  
19 Called Session, 2005, be used in providing the textbooks described  
20 by Subsection (a) of this section, to the extent that the money set  
21 aside under that subsection is not sufficient to provide those  
22 textbooks; and

23 (2) the Texas Education Agency provide for the  
24 delivery of textbooks to public school students for the 2005-2006  
25 school year as soon as practicable after this section takes effect.

26 SECTION 2E.48. Texas Education Agency Rider 78 in Article  
27 III, Senate Bill No. 1, Acts of the 79th Legislature, Regular

1 Session, 2005 (the General Appropriations Act), as amended by H.B.  
2 No. 1, Acts of the 79th Legislature, 1st Called Session, 2005, is  
3 amended to read as follows:

4 Rider 78. Textbook Proclamations. It is the intent of the  
5 Legislature that the State Board of Education forego the issuance  
6 of all Proclamations of textbook purchases until such time as the  
7 Legislature has implemented reforms to the system by which the  
8 state and school districts procure and purchase textbooks.

9 Contingent upon passage and enactment of House Bill 2, or  
10 similar legislation relating to public school finance by the 79th  
11 Legislature, 2nd [~~First~~] Called Session, 2005, or by a subsequent  
12 legislature that includes in the legislation reforms to the system  
13 by which the state and school districts procure and purchase  
14 textbooks, it is the intent of the Legislature that the State Board  
15 of Education rescind Proclamation 2004 and conduct activities  
16 related to instructional materials in accordance with the  
17 provisions of House Bill 2 or the similar legislation, as  
18 applicable.

19 SECTION 2E.49. Sections 31.002(3), 31.022, 31.023, 31.024,  
20 31.025, 31.101, 31.103, and 31.1031, Education Code, and Sections  
21 32.154(a) and (c), Education Code, as added by Chapter 834, Acts of  
22 the 78th Legislature, Regular Session, 2003, are repealed.

23 PART F. BILINGUAL EDUCATION AND SPECIAL

24 LANGUAGE PROGRAMS

25 SECTION 2F.01. Effective August 1, 2006, Subchapter B,  
26 Chapter 21, Education Code, is amended by adding Sections 21.0485  
27 and 21.0486 to read as follows:

1           Sec. 21.0485. DUAL LANGUAGE EDUCATION TEACHER  
2 CERTIFICATION. (a) To ensure that there are teachers with special  
3 training to work with other teachers and with students in a dual  
4 language education program, the commissioner shall establish a dual  
5 language education teaching certificate.

6           (b) The commissioner shall adopt rules establishing the  
7 training requirements, including the minimum academic  
8 qualifications, a person must accomplish to obtain a certificate  
9 under this section.

10          (c) The commissioner shall adopt rules establishing the  
11 requirements for a teacher who receives training in a foreign  
12 country to obtain a certificate under this section.

13           Sec. 21.0486. MASTER LANGUAGE TEACHER CERTIFICATION.

14          (a) To ensure that there are teachers with special training to  
15 work with other teachers and with students in order to improve  
16 student performance in English and other languages, the  
17 commissioner shall establish:

18           (1) a master language teacher certificate to teach  
19 bilingual education, dual language instruction, or English as a  
20 second language at elementary school grade levels;

21           (2) a master language teacher certificate to teach  
22 bilingual education, dual language instruction, or English as a  
23 second language at middle school grade levels; and

24           (3) a master language teacher certificate to teach  
25 dual language instruction at high school grade levels.

26          (b) The board shall issue the appropriate master language  
27 teacher certificate to each eligible person.

1       (c) To be eligible for a master language teacher  
2 certificate, a person must:

3           (1) hold a teaching certificate issued under this  
4 subchapter;

5           (2) have at least three years of experience teaching  
6 bilingual education, dual language instruction, or English as a  
7 second language;

8           (3) satisfactorily complete a knowledge-based course  
9 of instruction on second language acquisition and the science of  
10 teaching children language that includes training in language  
11 instruction and professional peer mentoring techniques that,  
12 through scientific testing, have been proven effective;

13           (4) perform satisfactorily on the appropriate master  
14 language certification examination prescribed by the commissioner;  
15 and

16           (5) satisfy any other requirements prescribed by the  
17 commissioner.

18       SECTION 2F.02. Section 21.050(b), Education Code, is  
19 amended to read as follows:

20       (b) The commissioner [~~board~~] may not require more than 18  
21 semester credit hours of education courses at the baccalaureate  
22 level for the granting of a teaching certificate. The commissioner  
23 [~~board~~] shall provide for a minimum number of semester credit hours  
24 of internship to be included in the hours needed for certification.  
25 The commissioner [~~board~~] may adopt [~~propose~~] rules requiring  
26 additional credit hours for certification in bilingual education,  
27 dual language instruction, English as a second language, early

1 childhood education, or special education.

2 SECTION 2F.03. Section 21.054, Education Code, is amended  
3 by adding Subsection (c) to read as follows:

4 (c) Rules adopted under Subsection (a) must permit an  
5 educator to fulfill continuing education requirements by acquiring  
6 conversational skills in one or more languages other than English  
7 and academic language development in the subject area for which the  
8 educator provides instruction. The rules must permit educators to  
9 obtain language instruction through a variety of methods, including  
10 attendance at workshops offered by qualified entities and  
11 enrollment on a noncredit basis in courses offered by public or  
12 private colleges and universities.

13 SECTION 2F.04. Subchapter B, Chapter 21, Education Code, is  
14 amended by adding Section 21.060 to read as follows:

15 Sec. 21.060. NOTICE OF EDUCATIONAL AIDE TUITION EXEMPTION.  
16 On issuing an educator certificate to an educational aide or  
17 renewing such a certificate, the commissioner shall notify the  
18 person to whom the certificate is issued of the existence of the  
19 educational aide exemption under Section 54.214.

20 SECTION 2F.05. Section 28.0051, Education Code, is amended  
21 by adding Subsection (d) to read as follows:

22 (d) The commissioner shall provide for the issuance of  
23 teaching certificates appropriate for dual language instruction to  
24 teachers who:

25 (1) possess a speaking, reading, and writing language  
26 ability in a language other than English in which a dual language  
27 immersion program is offered; and

1           (2) meet the general requirements of Subchapter B,  
2 Chapter 21.

3           SECTION 2F.06. Subchapter A, Chapter 28, Education Code, is  
4 amended by adding Section 28.0052 to read as follows:

5           Sec. 28.0052. DUAL LANGUAGE EDUCATION PILOT PROJECT. (a)  
6 The commissioner shall establish a pilot project in school  
7 districts selected by the commissioner under which the agency  
8 examines dual language education programs and the effect of those  
9 programs on a student's ability to graduate from high school.

10           (b) In selecting school districts under Subsection (a), the  
11 commissioner shall:

12                   (1) select districts that:

13                           (A) will commit to at least a three-year dual  
14 language education program; and

15                           (B) demonstrate a substantially equal enrollment  
16 of students with limited English proficiency and students whose  
17 primary language is English or, if a district does not have a  
18 sufficient number of limited English proficiency students to meet  
19 the equal enrollment standard, include the enrollment of students  
20 with limited English proficiency, students whose primary language  
21 is English, and bilingual students; and

22                   (2) give preference to a district that:

23                           (A) demonstrates the potential for expanding the  
24 program through middle school; and

25                           (B) will implement the program at the  
26 kindergarten level.

27           (c) The commissioner by rule shall require a district to

1 limit activities of the dual language education program during the  
2 first year of the program to planning activities, including:

3 (1) hiring and training teachers and ensuring teacher  
4 certification;

5 (2) establishing parental and community support for  
6 the program; and

7 (3) acquiring adequate learning materials in both  
8 program languages.

9 (d) From amounts appropriated to the agency, including  
10 foundation school program funds, the commissioner shall award  
11 grants to school districts that participate in the program. A grant  
12 under this section must be in an amount sufficient to pay the costs  
13 to the district of participating in the program, as determined by  
14 the commissioner. A determination of the commissioner under this  
15 subsection is final and may not be appealed.

16 (e) A school district that applies for the expansion of an  
17 existing dual language education program is eligible for a grant  
18 under Subsection (d).

19 (f) A school district may use a grant awarded under  
20 Subsection (d) for:

21 (1) classroom materials;

22 (2) tuition and textbook expenses for students seeking  
23 teacher certification under Section 21.0485; and

24 (3) other necessary costs of operating the program, as  
25 approved by the commissioner.

26 (f-1) During the 2006-2007 school year, the commissioner  
27 may award grants to school districts under this section only for the

1 purpose of planning activities described by Subsection (c) in an  
2 amount not to exceed two percent of the total amount required to  
3 fully implement the pilot program for the 2007-2008 school year.  
4 This subsection expires September 1, 2008.

5 (g) Grants under this section may not exceed \$13 million for  
6 each biennium.

7 (h) The agency shall report to the legislature describing  
8 the agency's activities under the pilot project, the effect of the  
9 project on grade-level completion, and the recommendations arising  
10 from the project. The agency shall submit an interim report under  
11 this subsection not later than January 1, 2009, and a final report  
12 not later than January 1, 2011.

13 (i) This section expires August 1, 2011.

14 SECTION 2F.07. Section 29.056, Education Code, is amended  
15 by amending Subsections (a), (d), and (g) and adding Subsections  
16 (g-1) and (i) to read as follows:

17 (a) The agency shall establish standardized criteria for  
18 the identification, assessment, and classification of students of  
19 limited English proficiency eligible for entry into the program or  
20 exit from the program. Except as provided by this subsection, the  
21 [The] student's parent must approve a student's entry into the  
22 program, exit from the program, or placement in the program. A  
23 school district shall provide notice to the student's parent that  
24 the district intends to transfer the student from the program. If  
25 the student's parent fails to respond to the notice on or before the  
26 30th day after the date the notice is provided, the district may  
27 transfer the student from the program without the student's

1 parent's approval. The district must inform the student's parent of  
2 the student's transfer from the program. The school district or  
3 parent may appeal the decision under Section 29.064. The criteria  
4 for identification, assessment, and classification may include:

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

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

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

1 administered an oral and written primary language proficiency test.

2 (d) Not later than the 20th [~~10th~~] day after the date of the  
3 student's classification as a student of limited English  
4 proficiency, the language proficiency assessment committee shall  
5 give written notice of the classification to the student's parent.  
6 The notice must be in English and the parent's primary language.  
7 The parents of students eligible to participate in the required  
8 bilingual education program shall be informed of the benefits of  
9 the bilingual education or special language program and that it is  
10 an integral part of the school program.

11 (g) A district may transfer a student of limited English  
12 proficiency out of a bilingual education or special language  
13 program for the first time or a subsequent time if the student is  
14 able to participate equally in a regular all-English instructional  
15 program as determined by:

16 (1) agency-approved tests administered at the end of  
17 each school year to determine the extent to which the student has  
18 developed oral and written language proficiency and specific  
19 language skills in [~~both the student's primary language and~~  
20 English;

21 (2) satisfactory performance on the reading  
22 assessment instrument under Section 39.023(a)(2) or the English  
23 language arts assessment instrument under Section 39.023(a)(4), as  
24 applicable, with the assessment instrument administered in  
25 English, or, if the student is enrolled in the first or second  
26 grade, an achievement score at or above the 40th percentile in the  
27 reading and language arts sections of an English standardized test

1 approved by the agency; and

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

6 (g-1) A school district may transfer a student of limited  
7 English proficiency who is eligible for special education services  
8 under Subchapter A out of a bilingual education or special language  
9 program and into a special education program if the language  
10 proficiency assessment committee and the student's admission,  
11 review, and dismissal committee agree that the student has a  
12 learning disability and would be better served in a special  
13 education program. The student's admission, review, and dismissal  
14 committee must document that the student has a learning disability  
15 that cannot be addressed effectively in a bilingual education or  
16 special language program and that the student's learning disability  
17 is not due to the student's limited English proficiency. The  
18 commissioner by rule shall adopt criteria for a school district to  
19 use in transferring a student under this subsection.

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

24 SECTION 2F.08. Subchapter B, Chapter 29, Education Code, is  
25 amended by adding Section 29.0561 to read as follows:

26 Sec. 29.0561. EVALUATION OF TRANSFERRED STUDENTS;  
27 REENROLLMENT. (a) The language proficiency assessment committee

1 shall reevaluate a student who is transferred out of a bilingual  
2 education or special language program under Section 29.056(g) if  
3 the student earns a failing grade in a subject in the foundation  
4 curriculum under Section 28.002(a)(1) during any grading period in  
5 the first two school years after the student is transferred to  
6 determine whether the student should be reenrolled in a bilingual  
7 education or special language program.

8 (b) During the first two school years after a student is  
9 transferred out of a bilingual education or special language  
10 program under Section 29.056(g), the language proficiency  
11 assessment committee shall review the student's performance and  
12 consider:

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

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

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

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

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

23 (c) After an evaluation under this section, the language  
24 proficiency assessment committee may require intensive instruction  
25 for the student or reenroll the student in a bilingual education or  
26 special language program.

27 SECTION 2F.09. Effective August 1, 2006, Subchapter B,

1 Chapter 29, Education Code, is amended by adding Section 29.065 to  
2 read as follows:

3 Sec. 29.065. MEASURE OF PROGRESS TOWARD ENGLISH LANGUAGE  
4 PROFICIENCY. The commissioner by rule shall develop a longitudinal  
5 measure of progress toward English language proficiency under which  
6 a student of limited English proficiency is evaluated from the time  
7 the student enters public school until, for two consecutive school  
8 years, the student scores at a specific level determined by the  
9 commissioner on the reading assessment instrument under Section  
10 39.023(a)(2) or the English language arts assessment instrument  
11 under Section 39.023(a)(4), as applicable. The commissioner shall:

12 (1) as part of the measure of progress, include  
13 student advancement from one proficiency level to a higher level  
14 under the reading proficiency in English assessment system  
15 developed under Section 39.027(e) and from the highest level under  
16 that assessment system to the level determined by the commissioner  
17 under this section on the reading assessment instrument under  
18 Section 39.023(a)(2) or the English language arts assessment  
19 instrument under Section 39.023(a)(4), as applicable; and

20 (2) to the extent practicable in developing the  
21 measure of progress, use applicable research and analysis done in  
22 developing an annual measurable achievement objective as required  
23 by Section 3122, No Child Left Behind Act of 2001 (20 U.S.C. Section  
24 6842).

25 SECTION 2F.10. Not later than January 1, 2006, the  
26 commissioner of education shall adopt rules permitting an educator  
27 to fulfill continuing education requirements by requiring

1 conversational skill in a language other than English, as required  
2 by Section 21.054(c), Education Code, as added by this Act.

3 SECTION 2F.11. Not later than January 1, 2007, the  
4 commissioner shall adopt rules:

5 (1) establishing requirements and prescribing an  
6 examination for master language teacher certification as required  
7 by Section 21.0486, Education Code, as added by this Act; and

8 (2) establishing requirements and prescribing an  
9 examination for dual language instruction teacher certification as  
10 required by Section 21.050(b), Education Code, as amended by this  
11 Act, and Section 28.0051(d), Education Code, as added by this Act.

12 PART G. HIGH ACADEMIC ACHIEVEMENT PROGRAMS

13 SECTION 2G.01. Subchapter D, Chapter 29, Education Code, is  
14 amended by adding Section 29.124 to read as follows:

15 Sec. 29.124. TEXAS GOVERNOR'S SCHOOLS. (a) In this  
16 section, "public senior college or university" has the meaning  
17 assigned by Section 61.003.

18 (b) A Texas governor's school is a summer residential  
19 program for high-achieving high school students. A governor's  
20 school program may include any or all of the following educational  
21 curricula:

22 (1) mathematics and science;

23 (2) humanities; or

24 (3) leadership and public policy.

25 (c) A public senior college or university may apply to the  
26 commissioner to administer a Texas governor's school program under  
27 this section. The commissioner shall give preference to a public

1 senior college or university that applies in cooperation with a  
2 nonprofit association. The commissioner shall give additional  
3 preference if the nonprofit association receives private  
4 foundation funds that may be used to finance the program.

5 (d) The commissioner may approve an application under this  
6 section only if the applicant:

7 (1) applies within the period and in the manner  
8 required by rule adopted by the commissioner;

9 (2) submits a program proposal that includes:

10 (A) a curriculum consistent with Subsection (b);

11 (B) criteria for selecting students to  
12 participate in the program;

13 (C) a statement of the length of the program,  
14 which must be at least three weeks; and

15 (D) a statement of the location of the program;

16 (3) agrees to use a grant under this section only for  
17 the purpose of administering a program; and

18 (4) satisfies any other requirements established by  
19 rule adopted by the commissioner.

20 (e) From funds appropriated to the agency, the commissioner  
21 may make a grant in an amount not to exceed \$750,000 each year to  
22 public senior colleges or universities whose applications are  
23 approved under this section to pay the costs of administering a  
24 Texas governor's school program.

25 (f) The commissioner may adopt other rules necessary to  
26 implement this section.

27 SECTION 2G.02. Section 39.051, Education Code, is amended

1 by adding Subsection (b-1) to read as follows:

2 (b-1) In addition to the indicators adopted under  
3 Subsection (b), the commissioner shall consider adopting and may  
4 adopt the following indicators relating to high academic  
5 achievement in assigning a district an exemplary performance rating  
6 under Section 39.072:

7 (1) the percentage of students, disaggregated by race,  
8 ethnicity, gender, and socioeconomic status, who are enrolled in an  
9 educational program for gifted and talented students;

10 (2) student results on advanced placement and  
11 international baccalaureate examinations, including the percentage  
12 of students scoring three or higher on the advanced placement  
13 examinations and the percentage of students scoring four or higher  
14 on the international baccalaureate examinations;

15 (3) student results on the Scholastic Assessment Test  
16 (SAT) and the American College Test (ACT);

17 (4) the percentage of students scoring in the top five  
18 percent on nationally recognized norm-referenced assessment  
19 instruments;

20 (5) the percentage of high school students enrolled in  
21 an advanced course;

22 (6) the percentage of students achieving commended  
23 performance, as determined by the State Board of Education, on an  
24 assessment instrument required under Section 39.023(a), (c), or  
25 (1);

26 (7) the percentage of students completing the  
27 recommended or advanced high school program established under

1 Section 28.025; and

2 (8) the percentage of the district's graduating  
3 students who enroll in an institution of higher education for the  
4 academic year following graduation.

5 SECTION 2G.03. Section 39.053(a), Education Code, is  
6 amended to read as follows:

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

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

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

19 (3) the district's current special education  
20 compliance status with the agency;

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

25 (5) information concerning school violence prevention  
26 and violence intervention policies and procedures that the district  
27 is using to protect students; [~~and~~]

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

5           (7) information received under Section 51.403(e) for  
6 each high school campus in the district, presented in a form  
7 determined by the commissioner; and

8           (8) information relating to high academic achievement  
9 in the district, as determined by the district's performance on the  
10 indicators under Section 39.051(b-1).

11           SECTION 2G.04. (a) Not later than the 2006-2007 school  
12 year, the Texas Education Agency shall collect information  
13 concerning high academic achievement for purposes of Section  
14 39.051(b-1), Education Code, as added by this Act.

15           (b) Not later than the 2007-2008 school year, the Texas  
16 Education Agency shall include information concerning high  
17 academic achievement for purposes of Section 39.051(b-1),  
18 Education Code, as added by this Act, in evaluating the performance  
19 of school districts, campuses, and public charter districts under  
20 Subchapter D, Chapter 39, Education Code.

21           (c) Not later than the 2007-2008 school year, the Texas  
22 Education Agency shall include the information required by Section  
23 39.182(a)(23), Education Code, as added by this Act, in the  
24 agency's comprehensive annual report under Section 39.182,  
25 Education Code.

26                           PART H. PREKINDERGARTEN PROGRAMS

27           SECTION 2H.01. Section 29.1532, Education Code, is amended

1 by adding Subsections (d), (e), and (f) to read as follows:

2 (d) Before a school district may implement a  
3 prekindergarten program, the district shall:

4 (1) investigate the possibility of sharing program  
5 sites with existing child-care programs licensed by the Department  
6 of Family and Protective Services and existing federal Head Start  
7 programs; and

8 (2) coordinate use of any sites to the greatest extent  
9 possible.

10 (e) A school district shall implement to the greatest extent  
11 possible coordinated use of licensed child-care and Head Start  
12 sites with existing prekindergarten programs.

13 (f) The commissioner may adopt rules relating to the  
14 operation of prekindergarten and early childhood care and education  
15 programs that receive state funds to foster school readiness in  
16 children enrolled in those programs.

17 PART I. SCHOOL DISCIPLINE

18 SECTION 2I.01. Chapter 26, Education Code, is amended by  
19 adding Section 26.0083 to read as follows:

20 Sec. 26.0083. RIGHT TO PROMPT NOTICE OF DISCIPLINARY  
21 ACTION. (a) A parent is entitled to notice from a school district  
22 or public charter district as provided by this section if the  
23 parent's child is removed from class under Section 37.006 for  
24 placement in a disciplinary alternative education program or under  
25 Section 37.007 for expulsion or placement in a juvenile justice  
26 alternative education program. A school district or public charter  
27 district shall make a good faith effort to provide the notice

1 required by this subsection on the same day the parent's child is  
2 removed from class. If the district fails to provide the notice on  
3 that day, the district shall provide or mail the notice not later  
4 than 5 p.m. on the first business day after the day the student is  
5 removed from class.

6 (b) A noncustodial parent who has requested notice of  
7 disciplinary actions as provided by Section 37.0091 is entitled to  
8 notice under Subsection (a).

9 SECTION 2I.02. Section 37.004, Education Code, is amended  
10 by adding Subsections (e) and (f) to read as follows:

11 (e) Notwithstanding any other provision of this subchapter,  
12 in a county with a juvenile justice alternative education program  
13 established under Section 37.011, the expulsion under a provision  
14 of Section 37.007 described by this subsection of a student with a  
15 disability who receives special education services must occur in  
16 accordance with this subsection and Subsection (f). The school  
17 district from which the student was expelled shall, in accordance  
18 with applicable federal law, provide the administrator of the  
19 juvenile justice alternative education program or the  
20 administrator's designee with reasonable notice of the meeting of  
21 the student's admission, review, and dismissal committee to discuss  
22 the student's expulsion. A representative of the juvenile justice  
23 alternative education program may participate in the meeting to the  
24 extent that the meeting relates to the student's placement in the  
25 program. This subsection applies only to an expulsion under:

26 (1) Section 37.007(b), (c), or (f); or

27 (2) Section 37.007(d) as a result of conduct that

1 contains the elements of any offense listed in Section  
2 37.007(b)(2)(C) against any employee or volunteer in retaliation  
3 for or as a result of the person's employment or association with a  
4 school district.

5 (f) If, after placement of a student in a juvenile justice  
6 alternative education program under Subsection (e), the  
7 administrator of the program or the administrator's designee has  
8 concerns that the student's educational or behavioral needs cannot  
9 be met in the program, the administrator or designee shall  
10 immediately provide written notice of those concerns to the school  
11 district from which the student was expelled. The student's  
12 admission, review, and dismissal committee shall meet to reconsider  
13 the placement of the student in the program. The district shall, in  
14 accordance with applicable federal law, provide the administrator  
15 or designee with reasonable notice of the meeting, and a  
16 representative of the program may participate in the meeting to the  
17 extent that the meeting relates to the student's continued  
18 placement in the program.

19 SECTION 2I.03. Section 37.008, Education Code, is amended  
20 by amending Subsections (m) and (m-1) and adding Subsection (n) to  
21 read as follows:

22 (m) Notwithstanding Section 7.028, the [The] commissioner  
23 shall adopt rules necessary to evaluate through an annual  
24 monitoring process [annually] the performance of each district's  
25 disciplinary alternative education program established under this  
26 subchapter. The monitoring process [evaluation] required by this  
27 section may be electronic and shall be based on indicators defined

1 by the commissioner, but must include student performance on  
 2 assessment instruments required under Section [~~Sections~~] 39.023(a)  
 3 and at least one indicator that measures student academic progress  
 4 [~~and (c)~~]. Academically, the mission of disciplinary alternative  
 5 education programs shall be to enable students to perform at grade  
 6 level.

7 (m-1) The agency shall integrate the monitoring process  
 8 developed under Subsection (m) with the monitoring the agency is  
 9 authorized to conduct under Section 7.028(a). The commissioner may  
 10 require [~~shall develop a process for evaluating~~] a school district  
 11 to contract at the district's expense in the manner provided by  
 12 Section 39.134 with a public or private service provider for  
 13 services determined by the commissioner to be necessary to:

14 (1) improve student performance;

15 (2) improve disciplinary alternative education  
 16 program effectiveness; and

17 (3) [~~electronically. The commissioner shall also~~  
 18 ~~develop a system and standards for review of the evaluation or use~~  
 19 ~~systems already available at the agency. The system must be~~  
 20 ~~designed to identify districts that are at high risk of having~~  
 21 ~~inaccurate disciplinary alternative education program data or of~~  
 22 ~~failing to~~] comply with disciplinary alternative education program  
 23 state and federal requirements.

24 (n) [~~The commissioner shall notify the board of trustees of~~  
 25 ~~a district of any objection the commissioner has to the district's~~  
 26 ~~disciplinary alternative education program data or of a violation~~  
 27 ~~of a law or rule revealed by the data, including any violation of~~

1 ~~disciplinary alternative education program requirements, or of any~~  
2 ~~recommendation by the commissioner concerning the data. If the~~  
3 ~~data reflect that a penal law has been violated, the commissioner~~  
4 ~~shall notify the county attorney, district attorney, or criminal~~  
5 ~~district attorney, as appropriate, and the attorney general.]~~ The  
6 commissioner is entitled to access to all district records the  
7 commissioner considers necessary or appropriate for the review,  
8 analysis, or approval of disciplinary alternative education  
9 program data.

10 SECTION 2I.04. Sections 37.020(b) and (c), Education Code,  
11 are amended to read as follows:

12 (b) For each placement in a disciplinary alternative  
13 education program established under Section 37.008, the district  
14 shall report:

15 (1) information identifying the student, including  
16 the student's race, sex, and date of birth, that will enable the  
17 agency to compare placement data with information collected through  
18 other reports;

19 (2) information indicating whether the student was  
20 enrolled in a special education program under Subchapter A, Chapter  
21 29, at the time of the placement;

22 (3) information indicating whether the placement was  
23 based on:

24 (A) conduct violating the student code of conduct  
25 adopted under Section 37.001;

26 (B) conduct for which a student may be removed  
27 from class under Section 37.002(b);

1 (C) conduct for which placement in a disciplinary  
2 alternative education program is required by Section 37.006; or

3 (D) conduct occurring while a student was  
4 enrolled in another district and for which placement in a  
5 disciplinary alternative education program is permitted by Section  
6 37.008(j);

7 (4) [~~(3)~~] the number of full or partial days the  
8 student was assigned to the program and the number of full or  
9 partial days the student attended the program; and

10 (5) [~~(4)~~] the number of placements that were  
11 inconsistent with the guidelines included in the student code of  
12 conduct under Section 37.001(a)(5).

13 (c) For each expulsion under Section 37.007, the district  
14 shall report:

15 (1) information identifying the student, including  
16 the student's race, sex, and date of birth, that will enable the  
17 agency to compare placement data with information collected through  
18 other reports;

19 (2) information indicating whether the student was  
20 enrolled in a special education program under Subchapter A, Chapter  
21 29, at the time of the expulsion;

22 (3) information indicating whether the expulsion was  
23 based on:

24 (A) conduct for which expulsion is required under  
25 Section 37.007, including information specifically indicating  
26 whether a student was expelled on the basis of Section 37.007(e); or

27 (B) conduct for which expulsion is permitted

1 under Section 37.007;

2 (4) [~~(3)~~] the number of full or partial days the  
3 student was expelled;

4 (5) [~~(4)~~] information indicating whether:

5 (A) the student was placed in a juvenile justice  
6 alternative education program under Section 37.011;

7 (B) the student was placed in a disciplinary  
8 alternative education program; or

9 (C) the student was not placed in a juvenile  
10 justice or other disciplinary alternative education program; and

11 (6) [~~(5)~~] the number of expulsions that were  
12 inconsistent with the guidelines included in the student code of  
13 conduct under Section 37.001(a)(5).

14 PART J. CRIMINAL HISTORY RECORDS INFORMATION

15 SECTION 2J.01. Subchapter B, Chapter 21, Education Code, is  
16 amended by adding Section 21.0401 to read as follows:

17 Sec. 21.0401. COLLECTION OF FINGERPRINTS REQUIRED. The  
18 commissioner shall obtain a complete set of fingerprints from:

19 (1) each applicant for a certificate issued under this  
20 subchapter;

21 (2) each applicant for or holder of a teaching permit  
22 issued under this subchapter; and

23 (3) each person described by Section 11A.153 or  
24 Section 21.0032 for whom the commissioner has received information  
25 from a public charter district.

26 SECTION 2J.02. Section 21.041(c), Education Code, is  
27 amended to read as follows:

1 (c) The commissioner by rule [~~board~~] shall set fees [~~propose~~  
2 ~~a rule adopting a fee~~] for:

3 (1) the issuance and maintenance of each [~~an~~] educator  
4 certificate that is adequate to cover the cost of administration of  
5 this subchapter, including costs related to the operation of the  
6 board and any amount necessary to cover the cost of obtaining  
7 fingerprints under Section 21.0401 or conducting a national  
8 criminal background review and investigation under Sections  
9 21.0032 and 22.082; and

10 (2) the cost of obtaining fingerprints from or  
11 conducting a national criminal background review of a holder of a  
12 teaching permit issued under this subchapter.

13 SECTION 2J.03. Section 22.082, Education Code, is amended  
14 to read as follows:

15 Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE  
16 EDUCATION AUTHORITIES [~~BOARD FOR EDUCATOR CERTIFICATION~~]. (a) The  
17 agency [~~State Board for Educator Certification~~] shall obtain from  
18 the Department of Public Safety [~~any law enforcement or criminal~~  
19 ~~justice agency~~] all state and national criminal history record  
20 information that relates to:

21 (1) an applicant for or holder of a certificate or  
22 permit issued under Subchapter B, Chapter 21; or

23 (2) a person described by Section 11A.153 or 21.0032.

24 (b) The Educators' Professional Practices Board may obtain  
25 from the Department of Public Safety all criminal history record  
26 information that relates to a holder of a certificate issued under  
27 Subchapter B, Chapter 21.

1        (c) The agency shall require each applicant, holder, and  
2 person described by Subsection (a)(2) to pay any costs to the agency  
3 related to obtaining criminal history record information related to  
4 the person under this section.

5        SECTION 2J.04. Section 22.083(d), Education Code, is  
6 amended to read as follows:

7        (d) The superintendent of a district or the director of a  
8 public charter district [~~an open-enrollment charter school~~],  
9 private school, regional education service center, or shared  
10 services arrangement shall promptly notify the Educators'  
11 Professional Practices [State] Board [~~for Educator Certification~~]  
12 in writing if the person obtains or has knowledge of information  
13 showing that an applicant for or holder of a certificate issued  
14 under Subchapter B, Chapter 21, has a reported criminal history.  
15 The board shall notify the commissioner of the reported criminal  
16 history.

17        SECTION 2J.05. Sections 22.085 and 22.086, Education Code,  
18 are amended to read as follows:

19        Sec. 22.085. DISCHARGE OF EMPLOYEES CONVICTED OF OFFENSES.  
20 A school district, public charter district [~~open-enrollment~~  
21 ~~charter school~~], private school, regional education service  
22 center, or shared services arrangement may discharge an employee if  
23 the district or school obtains information of the employee's  
24 conviction of a felony or of a misdemeanor involving moral  
25 turpitude that the employee did not disclose to the agency [~~State~~  
26 ~~Board for Educator Certification~~] or the district, school, service  
27 center, or shared services arrangement. An employee discharged

1 under this section is considered to have been discharged for  
2 misconduct for purposes of Section 207.044, Labor Code.

3 Sec. 22.086. LIABILITY FOR REPORTING OFFENSES. The agency,  
4 the Educators' Professional Practices [State] Board [for Educator  
5 Certification], a school district, a public charter district [an  
6 open-enrollment charter school], a private school, a regional  
7 education service center, a shared services arrangement, or an  
8 employee of the agency, board, district, school, service center, or  
9 shared services arrangement is not civilly or criminally liable for  
10 making a report required under this subchapter.

11 SECTION 2J.06. Section 411.090, Government Code, is amended  
12 to read as follows:

13 Sec. 411.090. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION  
14 AND FINGERPRINTS: STATE EDUCATIONAL AUTHORITIES [BOARD FOR  
15 EDUCATOR CERTIFICATION]. (a) The Texas Education Agency [State  
16 Board for Educator Certification] is entitled to obtain from the  
17 department any criminal history record information maintained by  
18 the department about:

19 (1) a person who has applied or expressed to the  
20 commissioner an intention to apply [board] for a certificate or  
21 permit or holds a certificate or permit under Subchapter B, Chapter  
22 21, Education Code; or

23 (2) a person described by Section 11A.153 or 21.0032,  
24 Education Code.

25 (b) Criminal history record information obtained by the  
26 agency [board] under Subsection (a):

27 (1) may be used for any purpose related to the issuance

1 or~~[,]~~ denial~~[, suspension, or cancellation]~~ of a certificate issued  
2 under Subchapter B, Chapter 21, Education Code, or for any purpose  
3 authorized by Section 11A.153 or 21.0032, Education Code ~~[by the~~  
4 ~~board]~~;

5 (2) may be provided to the Educators' Professional  
6 Practices Board to be used for any purpose related to the suspension  
7 or revocation of a certificate issued under Subchapter B, Chapter  
8 21, Education Code;

9 (3) may not be released to any other person except on  
10 court order or with the consent of the subject of the criminal  
11 history record information ~~[applicant for a certificate]~~; and

12 (4) ~~[(3)]~~ shall be destroyed by the agency ~~[board]~~  
13 after the information is used for the authorized purposes.

14 (c) The Texas Education Agency may keep on file with the  
15 department all fingerprints obtained by the agency under Section  
16 21.0401, Education Code. The department shall notify the agency of  
17 the arrest of any person who has fingerprints on file with the  
18 department pursuant to that section.

19 (d) On receipt of notice from the department of an arrest of  
20 a person described by Section 11A.153 or 21.0032, Education Code,  
21 the Texas Education Agency shall notify the public charter district  
22 affected.

23 PART K. HEALTH AND SAFETY

24 SECTION 2K.01. Chapter 33, Education Code, is amended by  
25 adding Subchapter F to read as follows:

1           SUBCHAPTER F. SAFETY REGULATIONS FOR CERTAIN

2                           EXTRACURRICULAR ACTIVITIES

3           Sec. 33.201. APPLICABILITY. This subchapter applies to  
4 each public school in this state and to any other school in this  
5 state subject to University Interscholastic League regulations.

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

11           (b) The following persons must satisfactorily complete the  
12 safety training program:

13                   (1) a coach, trainer, or sponsor for an  
14 extracurricular athletic activity;

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

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

19           (c) The safety training program must include:

20                   (1) certification of participants by the American Red  
21 Cross, the American Heart Association, or a similar organization or  
22 the University Interscholastic League, as determined by the  
23 commissioner;

24                   (2) annual training in:

25                           (A) emergency action planning;

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

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

3           (D) recognizing symptoms of potentially  
4 catastrophic injuries, including head and neck injuries,  
5 concussions, injuries related to second impact syndrome, asthma  
6 attacks, heatstroke, cardiac arrest, and injuries requiring use of  
7 a defibrillator; and

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

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

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

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

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

20           (f) A physician who is employed by a school or school  
21 district or who volunteers to assist with an extracurricular  
22 athletic activity is exempt from the requirements of Subsection (b)  
23 if the physician attends a continuing medical education course that  
24 specifically addresses emergency medicine for athletic team  
25 physicians.

26           Sec. 33.2021. COMPLETION OF UNIVERSITY INTERSCHOLASTIC  
27 LEAGUE MEDICAL HISTORY FORM. (a) Each student participating in an

1 extracurricular athletic activity must complete the University  
2 Interscholastic League forms entitled "Preparticipation Physical  
3 Evaluation--Medical History" and "Acknowledgment of Rules." Each  
4 form must be signed by both the student and the student's parent or  
5 guardian.

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

12 (c) The "Preparticipation Physical Evaluation--Medical  
13 History" form described by Subsection (a) must contain the  
14 following statement:

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

25 Sec. 33.203. CERTAIN UNSAFE ATHLETIC ACTIVITIES  
26 PROHIBITED. A coach, trainer, or sponsor for an extracurricular  
27 athletic activity may not encourage or permit a student

1 participating in the activity to engage in any unreasonably  
2 dangerous athletic technique that unnecessarily endangers the  
3 health of a student, including using a helmet or any other sports  
4 equipment as a weapon.

5 Sec. 33.204. CERTAIN SAFETY PRECAUTIONS REQUIRED. (a) A  
6 coach, trainer, or sponsor for an extracurricular athletic activity  
7 shall at each athletic practice or competition ensure that:

8 (1) each student participating in the activity is  
9 adequately hydrated;

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

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

14 (4) heatstroke prevention materials are readily  
15 available.

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

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

21 (2) continue to participate in any extracurricular  
22 athletic activity until the student receives written authorization  
23 from a physician.

24 Sec. 33.205. COMPLIANCE; ENFORCEMENT. (a) On request, a  
25 school shall make available to the public proof of compliance for  
26 each person enrolled in, employed by, or volunteering for the  
27 school who is required to receive safety training described by

1 Section 33.202.

2 (b) The superintendent of a school district or the director  
3 of a school subject to this subchapter shall maintain complete and  
4 accurate records of the district's or school's compliance with  
5 Section 33.202.

6 (c) A school campus that is determined by the school's  
7 superintendent or director to not be in compliance with Section  
8 33.202 or 33.204 or this section shall discontinue all  
9 extracurricular athletic activities offered by the school campus,  
10 including all practices and competitions, until the superintendent  
11 or director determines that the school campus is in compliance.

12 Sec. 33.206. CONTACT INFORMATION. (a) The commissioner  
13 shall maintain an existing telephone number and an electronic mail  
14 address to allow a person to report a violation of this subchapter.

15 (b) Each school that offers an extracurricular athletic  
16 activity shall prominently display at the administrative offices of  
17 the school the telephone number and electronic mail address  
18 maintained under Subsection (a).

19 Sec. 33.207. NOTICE REQUIRED. (a) A school that offers an  
20 extracurricular athletic activity shall provide to each student  
21 participating in an extracurricular athletic activity and to the  
22 student's parent or guardian a copy of the text of Sections  
23 33.201-33.206 and this section and a copy of the University  
24 Interscholastic League's parent information manual.

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

1       Sec. 33.208. INCORPORATION OF SAFETY REGULATIONS. The  
2 University Interscholastic League shall incorporate the provisions  
3 of Sections 33.203-33.207 into the league's constitution and  
4 contest rules.

5       Sec. 33.209. LIABILITY. The requirements of this  
6 subchapter are not considered ministerial acts for purposes of  
7 immunity from liability under Section 22.0511.

8       SECTION 2K.02. Subchapter D, Chapter 33, Education Code, is  
9 amended by adding Section 33.087 to read as follows:

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

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

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

23       SECTION 2K.03. The heading to Section 34.008, Education  
24 Code, is amended to read as follows:

25       Sec. 34.008. CONTRACT WITH TRANSIT AUTHORITY, [OR]  
26 COMMERCIAL TRANSPORTATION COMPANY, OR JUVENILE BOARD.

27       SECTION 2K.04. Section 34.008(a), Education Code, is

1 amended to read as follows:

2 (a) A board of county school trustees or school district  
3 board of trustees may contract with a mass transit authority, ~~[or]~~ a  
4 commercial transportation company, or a juvenile board for all or  
5 any part of a district's public school transportation if the  
6 authority, ~~[or]~~ company, or board:

7 (1) requires its school bus drivers to have the  
8 qualifications required by and to be certified in accordance with  
9 standards established by the Department of Public Safety; and

10 (2) uses only those school buses or mass transit  
11 authority buses in transporting 15 or more public school students  
12 that meet or exceed safety standards for school buses established  
13 under Section 34.002, Education Code.

14 SECTION 2K.05. The heading to Section 38.015, Education  
15 Code, is amended to read as follows:

16 Sec. 38.015. SELF-ADMINISTRATION OF PRESCRIPTION ASTHMA OR  
17 ANAPHYLAXIS MEDICINE BY STUDENTS.

18 SECTION 2K.06. Sections 38.015(a) and (b), Education Code,  
19 are amended to read as follows:

20 (a) In this section:

21 (1) "Parent" includes a person standing in parental  
22 relation.

23 (2) "Self-administration of prescription asthma or  
24 anaphylaxis medicine" means a student's discretionary use of  
25 prescription asthma or anaphylaxis medicine.

26 (b) A student with asthma or anaphylaxis is entitled to  
27 possess and self-administer prescription asthma or anaphylaxis

1 medicine while on school property or at a school-related event or  
2 activity if:

3 (1) the prescription [~~asthma~~] medicine has been  
4 prescribed for that student as indicated by the prescription label  
5 on the medicine;

6 (2) the student has demonstrated to the student's  
7 physician or other licensed health care provider and the school  
8 nurse, if available, the skill level necessary to self-administer  
9 the prescription medication, including the use of any device  
10 required to administer the medication;

11 (3) the self-administration is done in compliance with  
12 the prescription or written instructions from the student's  
13 physician or other licensed health care provider; and

14 (4) [~~(3)~~] a parent of the student provides to the  
15 school:

16 (A) a written authorization, signed by the  
17 parent, for the student to self-administer the prescription  
18 [~~asthma~~] medicine while on school property or at a school-related  
19 event or activity; and

20 (B) a written statement from the student's  
21 physician or other licensed health care provider, signed by the  
22 physician or provider, that states:

23 (i) that the student has asthma or  
24 anaphylaxis and is capable of self-administering the prescription  
25 [~~asthma~~] medicine;

26 (ii) the name and purpose of the medicine;

27 (iii) the prescribed dosage for the

1 medicine;

2 (iv) the times at which or circumstances  
3 under which the medicine may be administered; and

4 (v) the period for which the medicine is  
5 prescribed.

6 ARTICLE 3. CONFORMING AMENDMENTS

7 SECTION 3.01. Section 7.024(a), Education Code, is amended  
8 to read as follows:

9 (a) The investment capital fund consists of money  
10 transferred to the fund as provided by Section 42.152(d)(4)  
11 [~~42.152(1)~~]. The agency shall administer the fund. The purposes of  
12 this fund are to assist eligible public schools to implement  
13 practices and procedures consistent with deregulation and school  
14 restructuring in order to improve student achievement and to help  
15 schools identify and train parents and community leaders who will  
16 hold the school and the school district accountable for achieving  
17 high academic standards.

18 SECTION 3.02. Section 7.055(b)(34), Education Code, is  
19 amended to read as follows:

20 (34) The commissioner shall perform duties in  
21 connection with equalization actions [~~the equalized wealth level~~]  
22 under Chapter 41.

23 SECTION 3.03. Section 11.158(a), Education Code, is amended  
24 to read as follows:

25 (a) The board of trustees of an independent school district  
26 may require payment of:

27 (1) a fee for materials used in any program in which

1 the resultant product in excess of minimum requirements becomes, at  
2 the student's option, the personal property of the student, if the  
3 fee does not exceed the cost of materials;

4 (2) membership dues in student organizations or clubs  
5 and admission fees or charges for attending extracurricular  
6 activities, if membership or attendance is voluntary;

7 (3) a security deposit for the return of materials,  
8 supplies, or equipment;

9 (4) a fee for personal physical education and athletic  
10 equipment and apparel, although any student may provide the  
11 student's own equipment or apparel if it meets reasonable  
12 requirements and standards relating to health and safety  
13 established by the board;

14 (5) a fee for items of personal use or products that a  
15 student may purchase at the student's option, such as student  
16 publications, class rings, annuals, and graduation announcements;

17 (6) a fee specifically permitted by any other statute;

18 (7) a fee for an authorized voluntary student health  
19 and accident benefit plan;

20 (8) a reasonable fee, not to exceed the actual annual  
21 maintenance cost, for the use of musical instruments and uniforms  
22 owned or rented by the district;

23 (9) a fee for items of personal apparel that become the  
24 property of the student and that are used in extracurricular  
25 activities;

26 (10) a parking fee or a fee for an identification card;

27 (11) a fee for a driver training course, not to exceed

1 the actual district cost per student in the program for the current  
2 school year;

3 (12) a fee for a course offered for credit that  
4 requires the use of facilities not available on the school premises  
5 or the employment of an educator who is not part of the school's  
6 regular staff, if participation in the course is at the student's  
7 option;

8 (13) a fee for a course offered during summer school,  
9 except that the board may charge a fee for a course required for  
10 graduation only if the course is also offered without a fee during  
11 the regular school year;

12 (14) a reasonable fee for transportation of a student  
13 who lives within two miles of the school the student attends to and  
14 from that school, except that the board may not charge a fee for  
15 transportation for which the school district receives funds under  
16 Section 42.202 [~~42.155(d)~~]; or

17 (15) a reasonable fee, not to exceed \$50, for costs  
18 associated with an educational program offered outside of regular  
19 school hours through which a student who was absent from class  
20 receives instruction voluntarily for the purpose of making up the  
21 missed instruction and meeting the level of attendance required  
22 under Section 25.092.

23 SECTION 3.04. Section 12.013(b), Education Code, is amended  
24 to read as follows:

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

26 (1) a provision of this title establishing a criminal  
27 offense;

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

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

6           (A) the Public Education Information Management  
7 System (PEIMS) to the extent necessary to monitor compliance with  
8 this subchapter as determined by the commissioner;

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

11           (C) criminal history records under Subchapter C,  
12 Chapter 22;

13           (D) student admissions under Section 25.001;

14           (E) school attendance under Sections 25.085,  
15 25.086, and 25.087;

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

18           (G) elementary class size limits under Section  
19 25.112, in the case of any campus in the district that is considered  
20 academically unacceptable [~~low-performing~~] under Section 39.132;

21           (H) high school graduation under Section 28.025;

22           (I) special education programs under Subchapter  
23 A, Chapter 29;

24           (J) bilingual education under Subchapter B,  
25 Chapter 29;

26           (K) prekindergarten programs under Subchapter E,  
27 Chapter 29;

1 (L) safety provisions relating to the  
2 transportation of students under Sections 34.002, 34.003, 34.004,  
3 and 34.008;

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

6 (N) extracurricular activities under Section  
7 33.081;

8 (O) health and safety under Chapter 38;

9 (P) public school accountability under  
10 Subchapters B, C, D, and G, Chapter 39;

11 (Q) equalization [~~equalized wealth~~] under  
12 Section 42.401 [~~Chapter 41~~];

13 (R) a bond or other obligation or tax rate under  
14 Chapters 42, 43, and 45; and

15 (S) purchasing under Chapter 44.

16 SECTION 3.05. Section 13.054(f), Education Code, is amended  
17 to read as follows:

18 (f) For five years beginning with the school year in which  
19 the annexation occurs, the commissioner shall annually adjust the  
20 local share [~~fund assignment~~] of a district to which territory is  
21 annexed under this section by multiplying the enlarged district's  
22 local share [~~fund assignment~~] computed under Section 42.306  
23 [~~42.252~~] by a fraction, the numerator of which is the number of  
24 students residing in the district preceding the date of the  
25 annexation and the denominator of which is the number of students  
26 residing in the district as enlarged on the date of the annexation.

27 SECTION 3.06. Sections 13.282(a) and (b), Education Code,

1 are amended to read as follows:

2 (a) The amount of incentive aid payments may not exceed the  
3 difference between:

4 (1) the sum of the entitlements computed under Section  
5 42.313 [~~42.253~~] that would have been paid to the districts included  
6 in the reorganized district if the districts had not been  
7 consolidated; and

8 (2) the amount to which the reorganized district is  
9 entitled under Section 42.313 [~~42.253~~].

10 (b) If the reorganized district is not eligible for an  
11 entitlement under Section 42.313 [~~42.253~~], the amount of the  
12 incentive aid payments may not exceed the sum of the entitlements  
13 computed under Section 42.313 [~~42.253~~] for which the districts  
14 included in the reorganized district were eligible in the school  
15 year when they were consolidated.

16 SECTION 3.07. Section 21.410(h), Education Code, is amended  
17 to read as follows:

18 (h) A grant a school district receives under this section is  
19 in addition to any funding the district receives under Chapter 42.  
20 The commissioner shall distribute funds under this section with the  
21 Foundation School Program payment to which the district is entitled  
22 as soon as practicable after the end of the school year as  
23 determined by the commissioner. A district to which Section 42.401  
24 [~~Chapter 41~~] applies is entitled to the grants paid under this  
25 section. The commissioner shall determine the timing of the  
26 distribution of grants to a district that does not receive  
27 Foundation School Program payments.

1 SECTION 3.08. Section 21.411(h), Education Code, is amended  
2 to read as follows:

3 (h) A grant a school district receives under this section is  
4 in addition to any funding the district receives under Chapter 42.  
5 The commissioner shall distribute funds under this section with the  
6 Foundation School Program payment to which the district is entitled  
7 as soon as practicable after the end of the school year as  
8 determined by the commissioner. A district to which Section 42.401  
9 [~~Chapter 41~~] applies is entitled to the grants paid under this  
10 section. The commissioner shall determine the timing of the  
11 distribution of grants to a district that does not receive  
12 Foundation School Program payments.

13 SECTION 3.09. Section 21.412(h), Education Code, is amended  
14 to read as follows:

15 (h) A grant a school district receives under this section is  
16 in addition to any funding the district receives under Chapter 42.  
17 The commissioner shall distribute funds under this section with the  
18 Foundation School Program payment to which the district is entitled  
19 as soon as practicable after the end of the school year as  
20 determined by the commissioner. A district to which Section 42.401  
21 [~~Chapter 41~~] applies is entitled to the grants paid under this  
22 section. The commissioner shall determine the timing of the  
23 distribution of grants to a district that does not receive  
24 Foundation School Program payments.

25 SECTION 3.10. Section 21.413(h), Education Code, as added  
26 by Chapter 430, Acts of the 78th Legislature, Regular Session,  
27 2003, is amended to read as follows:

1 (h) A grant a school district receives under this section is  
2 in addition to any funding the district receives under Chapter 42.  
3 The commissioner shall distribute funds under this section with the  
4 Foundation School Program payment to which the district is entitled  
5 as soon as practicable after the end of the school year as  
6 determined by the commissioner. A district to which Section 42.401  
7 [~~Chapter 41~~] applies is entitled to the grants paid under this  
8 section. The commissioner shall determine the timing of the  
9 distribution of grants to a district that does not receive  
10 Foundation School Program payments.

11 SECTION 3.11. Effective on the 91st day after the last day  
12 of the legislative session, Section 21.453(b), Education Code, is  
13 amended to read as follows:

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

17 (1) are rated academically unacceptable;

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

20 (3) are otherwise in need of assistance as indicated  
21 by the academic performance of students, as determined by the  
22 commissioner.

23 SECTION 3.12. Effective on the 91st day after the last day  
24 of the legislative session, Section 22.004(c), Education Code, as  
25 amended by S.B. No. 1691 and S.B. No. 1863, Acts of the 79th  
26 Legislature, Regular Session, 2005, is amended to read as follows:

27 (c) The cost of the coverage provided under the program

1 described by Subsection (a) shall be paid by the state, the  
2 district, and the employees in the manner provided by Subchapter F,  
3 Chapter 1579, Insurance Code. The cost of coverage provided under a  
4 plan adopted under Subsection (b) shall be shared by the employees  
5 and the district using the contributions by the state described by  
6 Subchapter F, Chapter 1579, Insurance Code, or compensation  
7 designated for health care supplementation under Subchapter D.

8 SECTION 3.13. Section 29.008(b), Education Code, is amended  
9 to read as follows:

10 (b) Except as provided by Subsection (c), costs of an  
11 approved contract for residential placement may be paid from a  
12 combination of federal, state, and local funds. The local share of  
13 the total contract cost for each student is that portion of the  
14 local tax effort that exceeds the district's local share [~~fund~~  
15 ~~assignment~~] under Section 42.306 [~~42.252~~], divided by the average  
16 daily attendance in the district. If the contract involves a  
17 private facility, the state share of the total contract cost is that  
18 amount remaining after subtracting the local share. If the  
19 contract involves a public facility, the state share is that amount  
20 remaining after subtracting the local share from the portion of the  
21 contract that involves the costs of instructional and related  
22 services. For purposes of this subsection, "local tax effort"  
23 means the total amount of money generated by taxes imposed for debt  
24 service and maintenance and operation less any amounts paid into a  
25 tax increment fund under Chapter 311, Tax Code.

26 SECTION 3.14. Section 29.014(d), Education Code, is amended  
27 to read as follows:

1 (d) The accreditation [~~basic~~] allotment for a student  
2 enrolled in a district to which this section applies is adjusted by:

3 (1) the cost of education adjustment under Section  
4 42.301 [~~42.102~~] for the school district in which the district is  
5 geographically located; and

6 (2) any other appropriate factor adopted by the  
7 commissioner [~~the weight for a homebound student under Section~~  
8 ~~42.151(a)~~].

9 SECTION 3.15. Section 29.087(j), Education Code, is amended  
10 to read as follows:

11 (j) For purposes of funding under Chapters [~~41~~] 42[~~7~~] and  
12 46, a student attending a program authorized by this section may be  
13 counted in attendance only for the actual number of hours each  
14 school day the student attends the program, in accordance with  
15 Sections 25.081 and 25.082.

16 SECTION 3.16. Effective on the 91st day after the last day  
17 of the legislative session, Section 29.161(a), Education Code, as  
18 added by S.B. No. 23, Acts of the 79th Legislature, Regular Session,  
19 2005, is amended to read as follows:

20 (a) The State Center for Early Childhood Development, in  
21 conjunction with the P-16 Council established under Section 61.076  
22 [~~61.077~~], shall develop and adopt a school readiness certification  
23 system for use in certifying the effectiveness of prekindergarten  
24 programs, Head Start and Early Head Start programs,  
25 government-subsidized child-care programs provided by nonprofit or  
26 for-profit entities, government-subsidized faith-based child-care  
27 programs, and other government-subsidized child-care programs in

1 preparing children for kindergarten. The system shall be made  
2 available on a voluntary basis to program providers seeking to  
3 obtain certification as evidence of the quality of the program  
4 provided.

5 SECTION 3.17. Section 29.203(b), Education Code, is amended  
6 to read as follows:

7 (b) A school district is entitled to the allotment provided  
8 by Section 42.155 [~~42.157~~] for each eligible student using a public  
9 education grant. [~~If the district has a wealth per student greater  
10 than the guaranteed wealth level but less than the equalized wealth  
11 level, a school district is entitled under rules adopted by the  
12 commissioner to additional state aid in an amount equal to the  
13 difference between the cost to the district of providing services  
14 to a student using a public education grant and the sum of the state  
15 aid received because of the allotment under Section 42.157 and  
16 money from the available school fund attributable to the student.~~]

17 SECTION 3.18. Section 33.002(a), Education Code, is amended  
18 to read as follows:

19 (a) This section applies only to a school district that  
20 receives funds as provided by Section 42.152(d)(3) [~~42.152(i)~~].

21 SECTION 3.19. Section 34.002(c), Education Code, is amended  
22 to read as follows:

23 (c) A school district that fails or refuses to meet the  
24 safety standards for school buses established under this section is  
25 ineligible to share in the transportation allotment under  
26 Subchapter D, Chapter 42, [~~Section 42.155~~] until the first  
27 anniversary of the date the district begins complying with the

1 safety standards.

2 SECTION 3.20. Section 37.0061, Education Code, is amended  
3 to read as follows:

4 Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN  
5 JUVENILE RESIDENTIAL FACILITIES. A school district that provides  
6 education services to pre-adjudicated and post-adjudicated  
7 students who are confined by court order in a juvenile residential  
8 facility operated by a juvenile board is entitled to count such  
9 students in the district's average daily attendance for purposes of  
10 receipt of state funds under the Foundation School Program. [~~If the  
11 district has a wealth per student greater than the guaranteed  
12 wealth level but less than the equalized wealth level, the district  
13 in which the student is enrolled on the date a court orders the  
14 student to be confined to a juvenile residential facility shall  
15 transfer to the district providing education services an amount  
16 equal to the difference between the average Foundation School  
17 Program costs per student of the district providing education  
18 services and the sum of the state aid and the money from the  
19 available school fund received by the district that is attributable  
20 to the student for the portion of the school year for which the  
21 district provides education services to the student.~~]

22 SECTION 3.21. Section 39.031, Education Code, is amended to  
23 read as follows:

24 Sec. 39.031. COST. (a) The commissioner shall set aside an  
25 appropriate amount from the Foundation School Program to pay the  
26 cost of preparing, administering, or grading the assessment  
27 instruments and the [~~shall be paid from the funds allotted under~~

1 ~~Section 42.152, and each district shall bear the cost in the same~~  
2 ~~manner described for a reduction in allotments under Section~~  
3 ~~42.253. If a district does not receive an allotment under Section~~  
4 ~~42.152, the commissioner shall subtract the cost from the~~  
5 ~~district's other foundation school fund allotments.~~

6 ~~[(b) The] cost of releasing the question and answer keys~~  
7 ~~under Section 39.023(e) [shall be paid from amounts appropriated to~~  
8 ~~the agency].~~

9 (b) After setting aside an appropriate amount in accordance  
10 with this section, the commissioner shall reduce each district's  
11 tier one allotments proportionately. A reduction in tier one  
12 allotments under this subsection does not affect the computation of  
13 the guaranteed amount of revenue per student per cent of tax effort  
14 under Section 42.252.

15 (c) Any amount set aside under this section must be approved  
16 by the Legislative Budget Board and the governor's office of  
17 budget, planning, and policy.

18 SECTION 3.22. Section 43.002(b), Education Code, is amended  
19 to read as follows:

20 (b) Of the amounts available for transfer from the general  
21 revenue fund to the available school fund for the months of January  
22 and February of each fiscal year, no more than the amount necessary  
23 to enable the comptroller to distribute from the available school  
24 fund an amount equal to 9-1/2 percent of the estimated annual  
25 available school fund apportionment to category 1 school districts,  
26 as defined by Section 42.316 [~~42.259~~], and 3-1/2 percent of the  
27 estimated annual available school fund apportionment to category 2

1 school districts, as defined by Section 42.316 [~~42.259~~], may be  
2 transferred from the general revenue fund to the available school  
3 fund. Any remaining amount that would otherwise be available for  
4 transfer for the months of January and February shall be  
5 transferred from the general revenue fund to the available school  
6 fund in equal amounts in June and in August of the same fiscal year.

7 SECTION 3.23. Section 44.004, Education Code, is amended by  
8 amending Subsections (e) and (i) and adding Subsection (b-1) to  
9 read as follows:

10 (b-1) The notice of the public meeting to discuss and adopt  
11 the budget and the proposed tax rate may not be smaller than  
12 one-quarter page of a standard-size or a tabloid-size newspaper,  
13 and the headline on the notice must be in 18-point or larger type.

14 (e) A person who owns taxable property in a school district  
15 is entitled to an injunction restraining the collection of taxes by  
16 the district if the district has not complied with the requirements  
17 of Subsections (b) and (b-1) [~~-(c)-~~] and [~~(d), and~~], if applicable,  
18 Subsection (i), and the failure to comply was not in good faith. An  
19 action to enjoin the collection of taxes must be filed before the  
20 date the school district delivers substantially all of its tax  
21 bills.

22 (i) A school district that uses a certified estimate, as  
23 authorized by Subsection (h), may adopt a budget at the public  
24 meeting designated in the notice prepared using the estimate, but  
25 the district may not adopt a tax rate before the district receives  
26 the certified appraisal roll for the district required by Section  
27 26.01(a), Tax Code. After receipt of the certified appraisal roll,

1 the district must publish a revised notice and hold another public  
2 meeting before the district may adopt a tax rate that exceeds:

3 (1) the rate proposed in the notice prepared using the  
4 estimate; or

5 (2) the district's rollback rate determined under  
6 Section 26.08, Tax Code, if applicable, using the certified  
7 appraisal roll.

8 SECTION 3.24. Section 46.003(a), Education Code, is amended  
9 to read as follows:

10 (a) For each year, except as provided by Sections 46.005 and  
11 46.006, a school district is guaranteed a specified amount per  
12 student in state and local funds for each cent of tax effort, up to  
13 the maximum rate under Subsection (b), to pay the principal of and  
14 interest on eligible bonds issued to construct, acquire, renovate,  
15 or improve an instructional facility. The amount of state support  
16 is determined by the formula:

17 
$$\text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

18 where:

19 "FYA" is the guaranteed facilities yield amount of state  
20 funds allocated to the district for the year;

21 "FYL" is the dollar amount guaranteed level of state and  
22 local funds per student per cent of tax effort, which is \$35 or a  
23 greater amount for any year provided by appropriation;

24 "ADA" is the greater of the number of students in average  
25 daily attendance, as determined under Section 42.005, in the  
26 district or 400;

27 "BTR" is the district's bond tax rate for the current year,

1 which is determined by dividing the amount budgeted by the district  
2 for payment of eligible bonds by the quotient of the district's  
3 taxable value of property as determined under Subchapter M, Chapter  
4 403, Government Code, [~~or, if applicable, Section 42.2521,~~] divided  
5 by 100; and

6 "DPV" is the district's taxable value of property as  
7 determined under Subchapter M, Chapter 403, Government Code [~~, or,~~  
8 ~~if applicable, Section 42.2521~~].

9 SECTION 3.25. Section 46.006(g), Education Code, is amended  
10 to read as follows:

11 (g) In this section, "wealth per student" means a school  
12 district's taxable value of property as determined under Subchapter  
13 M, Chapter 403, Government Code, [~~or, if applicable, Section~~  
14 ~~42.2521,~~] divided by the district's average daily attendance as  
15 determined under Section 42.005.

16 SECTION 3.26. Sections 46.009(b), (e), and (f), Education  
17 Code, are amended to read as follows:

18 (b) If the amount appropriated for purposes of this  
19 subchapter for a year is less than the total amount determined under  
20 Subsection (a) for that year, the commissioner shall:

21 (1) transfer from the Foundation School Program to the  
22 instructional facilities program the amount by which the total  
23 amount determined under Subsection (a) exceeds the amount  
24 appropriated; and

25 (2) reduce each district's Texas education [~~foundation~~  
26 ~~school~~] fund allocations in the manner provided by Section  
27 42.313(f) [~~42.253(h)~~].

1 (e) Section 42.317 [~~42.258~~] applies to payments under this  
2 subchapter.

3 (f) If a school district would have received a greater  
4 amount under this subchapter for the applicable school year using  
5 the adjusted value determined under Section 42.310 [~~42.257~~], the  
6 commissioner shall add the difference between the adjusted value  
7 and the amount the district received under this subchapter to  
8 subsequent distributions to the district under this subchapter.

9 SECTION 3.27. Section 46.013, Education Code, is amended to  
10 read as follows:

11 Sec. 46.013. MULTIPLE ALLOTMENTS PROHIBITED. A school  
12 district is not entitled to state assistance under this subchapter  
13 based on taxes with respect to which the district receives state  
14 assistance under Subchapter G [~~F~~], Chapter 42.

15 SECTION 3.28. Section 46.032(a), Education Code, is amended  
16 to read as follows:

17 (a) Each school district is guaranteed a specified amount  
18 per student in state and local funds for each cent of tax effort to  
19 pay the principal of and interest on eligible bonds. The amount of  
20 state support, subject only to the maximum amount under Section  
21 46.034, is determined by the formula:

22 
$$\text{EDA} = (\text{EDGL} \times \text{ADA} \times \text{EDTR} \times 100) - (\text{EDTR} \times (\text{DPV}/100))$$

23 where:

24 "EDA" is the amount of state funds to be allocated to the  
25 district for assistance with existing debt;

26 "EDGL" is the dollar amount guaranteed level of state and  
27 local funds per student per cent of tax effort, which is \$35 or a

1 greater amount for any year provided by appropriation;

2 "ADA" is the number of students in average daily attendance,  
3 as determined under Section 42.005, in the district;

4 "EDTR" is the existing debt tax rate of the district, which is  
5 determined by dividing the amount budgeted by the district for  
6 payment of eligible bonds by the quotient of the district's taxable  
7 value of property as determined under Subchapter M, Chapter 403,  
8 Government Code, [~~or, if applicable, under Section 42.2521,~~]  
9 divided by 100; and

10 "DPV" is the district's taxable value of property as  
11 determined under Subchapter M, Chapter 403, Government Code [~~, or,~~  
12 ~~if applicable, under Section 42.2521~~].

13 SECTION 3.29. Section 46.037, Education Code, is amended to  
14 read as follows:

15 Sec. 46.037. MULTIPLE ALLOTMENTS PROHIBITED. A school  
16 district is not entitled to state assistance under this subchapter  
17 based on taxes with respect to which the district receives state  
18 assistance under Subchapter G [~~F~~], Chapter 42.

19 SECTION 3.30. Section 56.208, Education Code, is amended to  
20 read as follows:

21 Sec. 56.208. FUNDING. (a) The Early High School Graduation  
22 Scholarship program is financed under the Foundation School  
23 Program. [~~Funding for the state tuition credits is not subject to~~  
24 ~~the provisions of Sections 42.253(c) through (k).~~]

25 (b) The commissioner of education shall reduce the total  
26 annual amount of Texas education [~~foundation school~~] fund payments  
27 made to a school district by an amount equal to  $F \times A$ , where:

1           (1) "F" is the lesser of one or the quotient of the  
2 district's local share for the preceding school year under Section  
3 42.306 [~~42.252~~] divided by the tier one allotment under Section  
4 42.304 [~~amount of money to which the district was entitled under~~  
5 ~~Subchapters B and C, Chapter 42,~~] for the preceding school year; and

6           (2) "A" is the amount of state tuition credits under  
7 this subchapter applied by institutions of higher education on  
8 behalf of eligible persons who graduated from the district that has  
9 not been used to compute a previous reduction under this  
10 subsection.

11           (c) A school district that does not receive Texas education  
12 [~~foundation school~~] fund payments during a year in which the  
13 commissioner would otherwise withhold money from the district under  
14 Subsection (b) shall remit an amount equal to the amount that would  
15 be withheld under Subsection (b) to the comptroller for deposit to  
16 the credit of the Texas education [~~foundation school~~] fund.

17           SECTION 3.31. Section 105.301(e), Education Code, is  
18 amended to read as follows:

19           (e) The academy is not subject to the provisions of this  
20 code, or to the rules of the Texas Education Agency, regulating  
21 public schools, except that:

22           (1) professional employees of the academy are entitled  
23 to the limited liability of an employee under Section 22.0511,  
24 22.0512, or 22.052;

25           (2) a student's attendance at the academy satisfies  
26 compulsory school attendance requirements; and

27           (3) for each student enrolled, the academy is entitled

1 to allotments from the foundation school program under Chapter 42  
2 as if the academy were a school district without a tier one local  
3 share for purposes of Section 42.306 [~~42.253~~].

4 SECTION 3.32. Section 317.005(f), Government Code, is  
5 amended to read as follows:

6 (f) The governor or board may adopt an order under this  
7 section withholding or transferring any portion of the total amount  
8 appropriated to finance the foundation school program for a fiscal  
9 year. The governor or board may not adopt such an order if it would  
10 result in an allocation of money between particular programs or  
11 statutory allotments under the foundation school program contrary  
12 to the statutory proration formula provided by Section 42.313(f)  
13 [~~42.253(h)~~], Education Code. The governor or board may transfer an  
14 amount to the total amount appropriated to finance the foundation  
15 school program for a fiscal year and may increase the accreditation  
16 [~~basic~~] allotment. The governor or board may adjust allocations of  
17 amounts between particular programs or statutory allotments under  
18 the foundation school program only for the purpose of conforming  
19 the allocations to actual pupil enrollments or attendance.

20 SECTION 3.33. Section 403.093(d), Government Code, is  
21 amended to read as follows:

22 (d) The comptroller shall transfer from the general revenue  
23 fund to the Texas education [~~foundation school~~] fund an amount of  
24 money necessary to fund the foundation school program as provided  
25 by Chapter 42, Education Code. The comptroller shall make the  
26 transfers in installments as necessary to comply with Section  
27 42.316 [~~42.259~~], Education Code. An installment must be made not

1 earlier than two days before the date an installment to school  
2 districts is required by Section 42.316 [~~42.259~~], Education Code,  
3 and must not exceed the amount necessary for that payment.

4 SECTION 3.34. Section 403.302(k), Government Code, is  
5 amended to read as follows:

6 (k) For purposes of Sections 41.0012 and 42.308 [~~Section~~  
7 ~~42.2522~~], Education Code, the comptroller shall certify to the  
8 commissioner of education:

9 (1) a final value for each school district computed  
10 without any deduction for residence homestead exemptions granted  
11 under Section 11.13(n), Tax Code; [~~and~~]

12 (2) a final value for each school district computed  
13 after deducting one-half the total dollar amount of residence  
14 homestead exemptions granted under Section 11.13(n), Tax Code; and

15 (3) a final value for each school district computed  
16 after deducting the total dollar amount of residence homestead  
17 exemptions granted under Section 11.13(n), Tax Code.

18 SECTION 3.35. Section 404.121(1), Government Code, is  
19 amended to read as follows:

20 (1) "Cash flow deficit" for any period means the  
21 excess, if any, of expenditures paid and transfers made from the  
22 general revenue fund in the period, including payments provided by  
23 Section 42.316 [~~42.259~~], Education Code, over taxes and other  
24 revenues deposited to the fund in the period, other than revenues  
25 deposited pursuant to Section 403.092, that are legally available  
26 for the expenditures and transfers.

27 SECTION 3.36. Section 466.355(c), Government Code, is

1 amended to read as follows:

2 (c) Each August the comptroller shall:

3 (1) estimate the amount to be transferred to the Texas  
4 education [~~foundation school~~] fund on or before September 15; and

5 (2) notwithstanding Subsection (b)(4), transfer the  
6 amount estimated in Subdivision (1) to the Texas education  
7 [~~foundation school~~] fund before August 25 [~~installment payments are~~  
8 ~~made under Section 42.259, Education Code~~].

9 SECTION 3.37. Effective on the 91st day after the last day  
10 of the legislative session, Section 822.201(c), Government Code, as  
11 amended by S.B. No. 1691 and S.B. No. 1863, Acts of the 79th  
12 Legislature, Regular Session, 2005, is amended to read as follows:

13 (c) Excluded from salary and wages are:

14 (1) expense payments;

15 (2) allowances;

16 (3) payments for unused vacation or sick leave;

17 (4) maintenance or other nonmonetary compensation;

18 (5) fringe benefits;

19 (6) deferred compensation other than as provided by  
20 Subsection (b)(3);

21 (7) compensation that is not made pursuant to a valid  
22 employment agreement;

23 (8) payments received by an employee in a school year  
24 that exceed \$5,000 for teaching a driver education and traffic  
25 safety course that is conducted outside regular classroom hours;

26 (9) the benefit replacement pay a person earns as a  
27 result of a payment made under Subchapter B or C, Chapter 661;

1           (10) any compensation designated as health care  
2 supplementation [~~amount received~~] by an employee under Subchapter  
3 D, Chapter 22, Education Code, subject to the following annual  
4 limits:

5                   (A) \$1,000, for an employee entitled to the  
6 minimum salary under Section 21.402, Education Code; and

7                   (B) \$500, for any other school employee entitled  
8 under Section 22.103, Education Code, to designate a portion of the  
9 employee's compensation to be used as health care supplementation;

10           (11) any amount received by an employee under former  
11 Article 3.50-8, Insurance Code, former Chapter 1580, Insurance  
12 Code, or Rider 9, Page III-39, Chapter 1330, Acts of the 78th  
13 Legislature, Regular Session, 2003 (the General Appropriations  
14 Act); [~~and~~]

15           (12) amounts received under the educator excellence  
16 incentive program under Subchapter N, Chapter 21, Education Code;  
17 and

18           (13) [~~(11)~~] any compensation not described by  
19 Subsection (b).

20           SECTION 3.38. Section 2175.304(c), Government Code, is  
21 amended to read as follows:

22           (c) The procedures established under Subsection (b) must  
23 give preference to transferring the property directly to a public  
24 school or school district or to an assistance organization  
25 designated by the school district before disposing of the property  
26 in another manner. If more than one public school or school  
27 district or assistance organization seeks to acquire the same

1 property on substantially the same terms, the system, institution,  
 2 or agency shall give preference to a public school that is  
 3 considered academically unacceptable under Section 39.132,  
 4 Education Code, [~~low-performing by the commissioner of education~~]  
 5 or to a school district that has a relatively low [~~taxable~~] wealth  
 6 per student, as determined by the commissioner of education [~~that~~  
 7 ~~entitles the district to an allotment of state funds under~~  
 8 ~~Subchapter F, Chapter 42, Education Code~~], or to the assistance  
 9 organization designated by such a school district.

10 SECTION 3.39. Section 1579.251, Insurance Code, is amended  
 11 by amending Subsection (a) and adding Subsection (c) to read as  
 12 follows:

13 (a) The state shall assist employees of participating  
 14 school districts and charter schools in the purchase of group  
 15 health coverage under this chapter by providing for each covered  
 16 employee the amount of \$900 each state fiscal year or a greater  
 17 amount as provided by the General Appropriations Act. The state  
 18 contribution shall be distributed through the school finance  
 19 formulas under Chapters 41 and 42, Education Code, and used by  
 20 school districts and charter schools to pay contributions under a  
 21 group health coverage plan for employees [~~as provided by Sections~~  
 22 ~~42.2514 and 42.260, Education Code~~].

23 (c) A school district or charter school that does not  
 24 participate in the program is entitled to state assistance computed  
 25 and distributed as provided by Subsection (a). State funds  
 26 received under this subsection must be used to pay for employee  
 27 health coverage.

1           SECTION 3.40. Effective on the 91st day after the last day  
2 of the legislative session, Section 302.006(c), Labor Code, is  
3 amended to read as follows:

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

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

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

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

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

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

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

22           SECTION 3.41. Section 6.02(b), Tax Code, is amended to read  
23 as follows:

24           (b) A taxing unit that has boundaries extending into two or  
25 more counties may choose to participate in only one of the appraisal  
26 districts. In that event, the boundaries of the district chosen  
27 extend outside the county to the extent of the unit's boundaries.

1 To be effective, the choice must be approved by resolution of the  
2 board of directors of the district chosen. [~~The choice of a school~~  
3 ~~district to participate in a single appraisal district does not~~  
4 ~~apply to property annexed to the school district under Subchapter C~~  
5 ~~or G, Chapter 41, Education Code, unless:~~

6 [~~(1) the school district taxes property other than~~  
7 ~~property annexed to the district under Subchapter C or G, Chapter~~  
8 ~~41, Education Code, in the same county as the annexed property; or~~

9 [~~(2) the annexed property is contiguous to property in~~  
10 ~~the school district other than property annexed to the district~~  
11 ~~under Subchapter C or G, Chapter 41, Education Code.]~~

12 SECTION 3.42. Section 21.02(a), Tax Code, is amended to  
13 read as follows:

14 (a) Except as provided by [~~Subsection (b) and~~] Sections  
15 21.021, 21.04, and 21.05, tangible personal property is taxable by  
16 a taxing unit if:

17 (1) it is located in the unit on January 1 for more  
18 than a temporary period;

19 (2) it normally is located in the unit, even though it  
20 is outside the unit on January 1, if it is outside the unit only  
21 temporarily;

22 (3) it normally is returned to the unit between uses  
23 elsewhere and is not located in any one place for more than a  
24 temporary period; or

25 (4) the owner resides (for property not used for  
26 business purposes) or maintains the owner's [~~his~~] principal place  
27 of business in this state (for property used for business purposes)

1 in the unit and the property is taxable in this state but does not  
2 have a taxable situs pursuant to Subdivisions (1) through (3) [~~of~~  
3 ~~this section~~].

4 SECTION 3.43. Section 313.029, Tax Code, is amended to read  
5 as follows:

6 Sec. 313.029. TAX RATE LIMITATION. If the governing body of  
7 a school district grants an application for a limitation on  
8 appraised value under this subchapter, for each of the first two tax  
9 years that begins after the date the application is approved, the  
10 governing body of the school district may not adopt a tax rate that  
11 exceeds the school district's rollback tax rate under Section  
12 26.08, if applicable, for that year. If, in any tax year in which a  
13 restriction on the school district's tax rate under this section is  
14 in effect, the governing body approves a subsequent application for  
15 a limitation on appraised value under this section, the restriction  
16 on the school district's tax rate is extended until the first tax  
17 year that begins after the second anniversary of the date the  
18 subsequent application is approved.

19 SECTION 3.44. Except as otherwise provided by this Act,  
20 this article takes effect September 1, 2006.

21 ARTICLE 4. CHARTER SCHOOLS

22 SECTION 4.01. (a) Effective August 1, 2006, Subchapter D,  
23 Chapter 12, Education Code, is repealed.

24 (b) Except as provided by Section 11A.1041, Education Code,  
25 as added by this Act, each open-enrollment charter school operating  
26 or holding a charter to operate on August 1, 2006, shall be  
27 dissolved in accordance with Subchapter J, Chapter 11A, Education

1 Code, as added by this Act.

2 SECTION 4.02. Subtitle C, Title 2, Education Code, is  
3 amended by adding Chapter 11A to read as follows:

4 CHAPTER 11A. PUBLIC CHARTER DISTRICTS

5 SUBCHAPTER A. GENERAL PROVISIONS

6 Sec. 11A.001. DEFINITIONS. In this chapter:

7 (1) "Charter holder" means the entity to which a  
8 charter is granted under this chapter.

9 (2) "Governing body of a charter holder" means the  
10 board of directors, board of trustees, or other governing body of a  
11 charter holder.

12 (3) "Governing body of a public charter district"  
13 means the board of directors, board of trustees, or other governing  
14 body of a public charter district. The term includes the governing  
15 body of a charter holder if that body acts as the governing body of  
16 the public charter district.

17 (4) "Management company" means a person, other than a  
18 charter holder, who provides management services for a public  
19 charter district.

20 (5) "Management services" means services related to  
21 the management or operation of a public charter district,  
22 including:

23 (A) planning, operating, supervising, and  
24 evaluating the public charter district's educational programs,  
25 services, and facilities;

26 (B) making recommendations to the governing body  
27 of the public charter district relating to the selection of school

1 personnel;

2 (C) managing the public charter district's  
3 day-to-day operations as its administrative manager;

4 (D) preparing and submitting to the governing  
5 body of the public charter district a proposed budget;

6 (E) recommending policies to be adopted by the  
7 governing body of the public charter district, developing  
8 appropriate procedures to implement policies adopted by the  
9 governing body of the public charter district, and overseeing the  
10 implementation of adopted policies; and

11 (F) providing leadership for the attainment of  
12 student performance at the public charter district based on the  
13 indicators adopted under Section 39.051 or by the governing body of  
14 the public charter district.

15 (6) "Officer of a public charter district" means:

16 (A) the principal, director, or other chief  
17 operating officer of a public charter district or campus; or

18 (B) a person charged with managing the finances  
19 of a public charter district.

20 Sec. 11A.002. AUTHORIZATION. (a) In accordance with this  
21 chapter, the State Board of Education may grant a charter on the  
22 application of an eligible entity for a public charter district to  
23 operate in a facility of a commercial or nonprofit entity, an  
24 eligible entity, or a school district, including a home-rule school  
25 district. In this subsection, "eligible entity" means:

26 (1) an institution of higher education as defined  
27 under Section 61.003;

1           (2) a private or independent institution of higher  
2 education as defined under Section 61.003;

3           (3) an organization that is exempt from federal income  
4 taxation under Section 501(a), Internal Revenue Code of 1986, as an  
5 organization described by Section 501(c)(3) of that code; or

6           (4) a governmental entity in this state.

7           (b) The State Board of Education may grant a charter for a  
8 public charter district only to an applicant that meets all  
9 financial, governing, and operational standards adopted by the  
10 commissioner under this chapter.

11           (c) The State Board of Education may not grant more than a  
12 total of 215 charters for public charter districts.

13           (d) An educator employed by a school district before the  
14 effective date of a charter for a public charter district operated  
15 at a school district facility may not be transferred to or employed  
16 by the public charter district over the educator's objection.

17           Sec. 11A.003. AUTHORITY UNDER CHARTER. A public charter  
18 district:

19           (1) shall provide instruction to and assess a number  
20 of students at a number of elementary or secondary grade levels, as  
21 provided by the charter, sufficient to permit the agency to assign  
22 an accountability rating under Chapter 39;

23           (2) is governed under the governing structure required  
24 by this chapter and described by the charter;

25           (3) retains authority to operate under the charter  
26 contingent on satisfactory student performance as provided by the  
27 charter in accordance with Section 11A.103; and

1           (4) does not have authority to impose taxes.

2           Sec. 11A.004. STATUS. A public charter district or campus  
3 is part of the public school system of this state.

4           Sec. 11A.005. IMMUNITY FROM LIABILITY. In matters related  
5 to operation of a public charter district, a public charter  
6 district is immune from liability to the same extent as a school  
7 district, and its employees and volunteers are immune from  
8 liability to the same extent as school district employees and  
9 volunteers. Except as provided by Section 11A.154, a member of the  
10 governing body of a public charter district or of a charter holder  
11 is immune from liability to the same extent as a school district  
12 trustee.

13           Sec. 11A.006. REFERENCE TO OPEN-ENROLLMENT CHARTER SCHOOL.  
14 A reference in law to an open-enrollment charter school means a  
15 public charter district or public charter campus, as applicable.

16           [Sections 11A.007-11A.050 reserved for expansion]

17           SUBCHAPTER B. APPLICABILITY OF CERTAIN LAWS

18           Sec. 11A.051. GENERAL APPLICABILITY OF LAWS, RULES, AND  
19 ORDINANCES TO PUBLIC CHARTER DISTRICT. (a) Except as provided by  
20 Subsection (b) or (c), a public charter district is subject to  
21 federal and state laws and rules governing public schools and to  
22 municipal zoning ordinances governing public schools.

23           (b) A public charter district is subject to this code and  
24 rules adopted under this code only to the extent the applicability  
25 to a public charter district of a provision of this code or a rule  
26 adopted under this code is specifically provided.

27           (c) Notwithstanding Subsection (a), a campus of a public

1 charter district located in whole or in part in a municipality with  
2 a population of 20,000 or less is not subject to a municipal zoning  
3 ordinance governing public schools.

4 Sec. 11A.052. APPLICABILITY OF TITLE. (a) A public charter  
5 district has the powers granted to schools under this title.

6 (b) A public charter district is subject to:

7 (1) a provision of this title establishing a criminal  
8 offense; and

9 (2) a prohibition, restriction, or requirement, as  
10 applicable, imposed by this title or a rule adopted under this  
11 title, relating to:

12 (A) the Public Education Information Management  
13 System (PEIMS) under Section 7.007;

14 (B) reporting an educator's misconduct under  
15 Section 21.006;

16 (C) criminal history records under Subchapter C,  
17 Chapter 22;

18 (D) reading instruments and accelerated reading  
19 instruction programs under Section 28.006;

20 (E) satisfactory performance on assessment  
21 instruments and to accelerated instruction under Section 28.0211;

22 (F) intensive programs of instruction under  
23 Section 28.0213;

24 (G) high school graduation under Section 28.025;

25 (H) special education programs under Subchapter  
26 A, Chapter 29, including a requirement that special education  
27 teachers obtain appropriate certification;

1                   (I) bilingual education under Subchapter B,  
2 Chapter 29, including a requirement that bilingual education  
3 teachers obtain appropriate certification;

4                   (J) prekindergarten programs under Subchapter E,  
5 Chapter 29;

6                   (K) extracurricular activities under Section  
7 33.081;

8                   (L) discipline management practices or behavior  
9 management techniques under Section 37.0021;

10                   (M) health and safety under Chapter 38; and

11                   (N) public school accountability under  
12 Subchapters B, C, D, G, and I, Chapter 39.

13           (c) A public charter district is entitled to the same level  
14 of services provided to school districts by regional education  
15 service centers. The commissioner shall adopt rules that provide  
16 for the representation of public charter districts on the boards of  
17 directors of regional education service centers.

18           (d) The commissioner may by rule permit a public charter  
19 district to voluntarily participate in any state program available  
20 to school districts, including a purchasing program, if the public  
21 charter district complies with all terms of the program.

22           Sec. 11A.053. APPLICABILITY OF OPEN MEETINGS AND PUBLIC  
23 INFORMATION LAWS. (a) With respect to the operation of a public  
24 charter district, the governing body of a charter holder and the  
25 governing body of a public charter district are considered to be  
26 governmental bodies for purposes of Chapters 551 and 552,  
27 Government Code.

1       (b) With respect to the operation of a public charter  
2 district, any requirement in Chapter 551 or 552, Government Code,  
3 that applies to a school district, the board of trustees of a school  
4 district, or public school students applies to a public charter  
5 district, the governing body of a charter holder, the governing  
6 body of a public charter district, or students in attendance at a  
7 public charter district campus.

8       Sec. 11A.054. APPLICABILITY OF LAWS RELATING TO LOCAL  
9 GOVERNMENT RECORDS. (a) With respect to the operation of a public  
10 charter district, a public charter district is considered to be a  
11 local government for purposes of Subtitle C, Title 6, Local  
12 Government Code, and Subchapter J, Chapter 441, Government Code.

13       (b) Records of a public charter district, a charter holder,  
14 or a management company that relate to a public charter district are  
15 government records for all purposes under state law.

16       (c) Any requirement in Subtitle C, Title 6, Local Government  
17 Code, or Subchapter J, Chapter 441, Government Code, that applies  
18 to a school district, the board of trustees of a school district, or  
19 an officer or employee of a school district applies to a public  
20 charter district or management company, the governing body of a  
21 charter holder, the governing body of a public charter district, or  
22 an officer or employee of a public charter district or management  
23 company except that the records of a public charter district or  
24 management company that ceases to operate shall be transferred in  
25 the manner prescribed by Subsection (d).

26       (d) The records of a public charter district or management  
27 company that ceases to operate shall be transferred in the manner

1 specified by the commissioner to a custodian designated by the  
2 commissioner. The commissioner may designate any appropriate  
3 entity to serve as custodian, including the agency, a regional  
4 education service center, or a school district. In designating a  
5 custodian, the commissioner shall ensure that the transferred  
6 records, including student and personnel records, are transferred  
7 to a custodian capable of:

8 (1) maintaining the records;

9 (2) making the records readily accessible to students,  
10 parents, former school employees, and other persons entitled to  
11 access; and

12 (3) complying with applicable state or federal law  
13 restricting access to the records.

14 (e) If the charter holder of a public charter district that  
15 ceases to operate or an officer or employee of the district or a  
16 management company refuses to transfer school records in the manner  
17 specified by the commissioner under Subsection (d), the  
18 commissioner may ask the attorney general to petition a court for  
19 recovery of the records. If the court grants the petition, the  
20 court shall award attorney's fees and court costs to the state.

21 (f) A record described by this section is a public school  
22 record for purposes of Section 37.10(c)(2), Penal Code.

23 Sec. 11A.055. APPLICABILITY OF LAWS RELATING TO PUBLIC  
24 PURCHASING AND CONTRACTING. (a) This section applies to a public  
25 charter district unless the district's charter otherwise describes  
26 procedures for purchasing and contracting and the procedures are  
27 approved by the State Board of Education.

1       (b) A public charter district is considered to be:

2           (1) a governmental entity for purposes of:

3                   (A) Subchapter D, Chapter 2252, Government Code;

4       and

5                   (B) Subchapter B, Chapter 271, Local Government  
6       Code;

7           (2) a political subdivision for purposes of Subchapter  
8       A, Chapter 2254, Government Code; and

9           (3) a local government for purposes of Sections  
10       2256.009-2256.016, Government Code.

11       (c) To the extent consistent with this section, a  
12       requirement in a law listed in this section that applies to a school  
13       district or the board of trustees of a school district applies to a  
14       public charter district, the governing body of a charter holder, or  
15       the governing body of a public charter district.

16       Sec. 11A.056. APPLICABILITY OF LAWS RELATING TO CONFLICT OF  
17       INTEREST. (a) A member of the governing body of a charter holder, a  
18       member of the governing body of a public charter district, or an  
19       officer of a public charter district is considered to be a local  
20       public official for purposes of Chapter 171, Local Government Code.  
21       For purposes of that chapter:

22           (1) a member of the governing body of a charter holder  
23       or a member of the governing body or officer of a public charter  
24       district is considered to have a substantial interest in a business  
25       entity if a person related to the member or officer in the third  
26       degree by consanguinity or affinity, as determined under Chapter  
27       573, Government Code, has a substantial interest in the business

1 entity under Section 171.002, Local Government Code; and

2 (2) a teacher at a public charter district may serve as  
3 a member of the governing body of the charter holder or the  
4 governing body of the public charter district if the teachers  
5 -serving on the governing body:

6 (A) do not constitute a quorum of the governing  
7 body or any committee of the governing body; and

8 (B) comply with the requirements of Sections  
9 171.003-171.007, Local Government Code.

10 (b) To the extent consistent with this section, a  
11 requirement of a law listed in this section that applies to a school  
12 district or the board of trustees of a school district applies to a  
13 public charter district, the governing body of a charter holder, or  
14 the governing body of a public charter district.

15 (c) An employee who is not a teacher may serve as a member of  
16 the governing body of a charter holder or the governing body of a  
17 public charter district if:

18 (1) the charter holder operating the public charter  
19 district where the individual is employed and serves as a member of  
20 the governing body operated an open-enrollment charter school under  
21 Subchapter D, Chapter 12, on August 31, 2005;

22 (2) the individual was employed by the charter holder  
23 and serving as a member of the governing body on August 31, 2005, in  
24 compliance with former Section 12.1054; and

25 (3) the individual had been continuously so employed  
26 and serving since a date on or before January 1, 2005.

27 (d) If under Subsection (c) an individual continues to be

1 employed and serve as a member of the governing body, the individual  
2 may not participate in any deliberation or voting on the  
3 appointment, reappointment, confirmation of the appointment or  
4 reappointment, employment, reemployment, change in the status,  
5 compensation, or dismissal of the individual if that action applies  
6 only to the individual and is not taken regarding a bona fide class  
7 or category of employees. In addition, the individual may not hear,  
8 consider, or act on any grievance or complaint concerning the  
9 individual or a matter with which the individual has dealt in the  
10 individual's capacity as an employee.

11 Sec. 11A.057. APPLICABILITY OF NEPOTISM LAWS. (a) A public  
12 charter district, including the governing body of a public charter  
13 district and any district employee with final authority to hire a  
14 district employee, is subject to a prohibition, restriction, or  
15 requirement, as applicable, imposed by state law or by a rule  
16 adopted under state law, relating to nepotism under Chapter 573,  
17 Government Code.

18 (b) Notwithstanding Subsection (a), a member of the  
19 governing body of a charter holder or public charter district may  
20 not be related in the third degree by consanguinity or affinity, as  
21 determined under Chapter 573, Government Code, to another member of  
22 the governing body of the charter holder or public charter  
23 district.

24 (c) This section does not apply to an appointment,  
25 confirmation of an appointment, or vote for an appointment or  
26 confirmation of an appointment of an individual to a position if:

27 (1) the charter holder operating the public charter

1 district where the individual is employed or serves as a member of  
2 the governing body operated an open-enrollment charter school under  
3 Subchapter D, Chapter 12, on August 31, 2005;

4 (2) the individual was employed or serving in the  
5 position on August 31, 2005, in compliance with former Section  
6 12.1055; and

7 (3) the individual has been continuously employed or  
8 serving since a date on or before January 1, 2005.

9 (d) If, under Subsection (c), an individual continues to be  
10 employed or serve in a position, the public official to whom the  
11 individual is related in a prohibited degree may not participate in  
12 any deliberation or voting on the appointment, reappointment,  
13 confirmation of the appointment or reappointment, employment,  
14 reemployment, change in status, compensation, or dismissal of the  
15 individual if that action applies only to the individual and is not  
16 taken regarding a bona fide class or category of 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 to  
24 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  
6 performance 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 and  
16 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 notice  
20 to each member of the legislature that represents the geographic  
21 area to be served by the proposed public charter district, as  
22 determined by the commissioner, on receipt by the State Board of  
23 Education of an application for a charter for a public charter  
24 district under Section 11A.101.

25       Sec. 11A.103. CONTENT. (a) Each charter granted under this  
26 chapter must:

27           (1) describe the educational program to be offered,

1 which must include the required curriculum as provided by Section  
2 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, which may not be statewide; 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 the  
15 district develop and administer personal graduation plans under  
16 Section 28.0212.

17 (c) The terms of a charter may not include plans for future  
18 increases in student enrollment, grade levels, campuses, or  
19 geographical area, except that:

20 (1) the charter may contain a plan for adding grade  
21 levels as necessary to comply with Section 11A.253(c) or (d); and

22 (2) the commissioner may approve such an increase in a  
23 charter revision request under Section 11A.106.

24 Sec. 11A.104. FORM. A charter for a public charter district  
25 shall be in the form of a license issued by the State Board of  
26 Education to the charter holder.

27 Sec. 11A.1041. GRANT OF CHARTER REQUIRED FOR CERTAIN

1 ENTITIES. (a) Notwithstanding Section 11A.101, the commissioner  
2 shall immediately grant a charter under this chapter to the  
3 following entities on or before August 1, 2006:

4 (1) an eligible entity holding a charter granted  
5 before September 1, 2002, under Subchapter D, Chapter 12, as that  
6 subchapter existed on January 1, 2005, if:

7 (A) for fiscal years 2004 and 2005, the entity  
8 had total assets that exceeded total liabilities, as determined by  
9 the entity's annual audit report under Section 44.008;

10 (B) at least 25 percent of all students enrolled  
11 at the entity's open-enrollment charter school and administered an  
12 assessment instrument under Section 39.023(a), (c), or (l)  
13 performed satisfactorily on the assessment instrument in  
14 mathematics, as determined by the school's assessment instrument  
15 results for the 2005-2006 school year; and

16 (C) at least 25 percent of all students enrolled  
17 at the entity's open-enrollment charter school and administered an  
18 assessment instrument under Section 39.023(a), (c), or (l)  
19 performed satisfactorily on the assessment instrument in reading or  
20 English language arts, as applicable, as determined by the school's  
21 assessment instrument results for the 2005-2006 school year;

22 (2) a governmental entity holding a charter under  
23 Subchapter D, Chapter 12, as that subchapter existed on January 1,  
24 2005;

25 (3) an eligible entity holding a charter under  
26 Subchapter D, Chapter 12, as that subchapter existed on January 1,  
27 2005, if at least 85 percent of students enrolled in the school

1 reside in a residential facility; and

2 (4) an eligible entity granted a charter on or after  
3 September 1, 2002, under Subchapter D, Chapter 12, as that  
4 subchapter existed on January 1, 2005.

5 (b) Assessment instrument results for fewer than five  
6 students are not considered for purposes of Subsection (a)(1)(B) or  
7 (C).

8 (c) The commissioner shall determine which entities are  
9 eligible for a charter under this section as soon as practicable.

10 (d) The content and terms of a charter granted to an  
11 eligible entity under this section must be the same as those under  
12 which the entity operated under Subchapter D, Chapter 12, as that  
13 subchapter existed on January 1, 2005, except that where the terms  
14 conflict with this chapter, this chapter prevails.

15 (e) An eligible entity holding multiple charters prior to  
16 January 1, 2005, may not combine those charters into one charter for  
17 a public charter district but must retain each of those charters  
18 which count towards the limit imposed under Section 11A.002(c).

19 (f) Section 11A.157 does not apply to an entity granted a  
20 charter under this section.

21 (g) A decision of the commissioner under this section is not  
22 subject to a hearing or an appeal to a district court.

23 (h) This section expires January 1, 2008.

24 Sec. 11A.1042. DETERMINATION OF ACCEPTABLE PERFORMANCE.

25 (a) For purposes of Section 11A.1041(a), the commissioner shall  
26 compute the percentage of students who performed satisfactorily on  
27 an assessment instrument in a manner consistent with this section.

1       (b) The commissioner may only consider the performance of a  
2 student who was enrolled as of the date for reporting enrollment for  
3 the fall semester under the Public Education Information Management  
4 System (PEIMS).

5       (c) In computing performance under this section, the  
6 commissioner must:

7           (1) add the results for third through 11th grade  
8 assessment instruments in English and third through sixth grade  
9 assessment instruments in Spanish across grade levels tested at all  
10 campuses operated by the charter holder and evaluate those results  
11 for all students;

12           (2) combine the results for third through ninth grade  
13 assessment instruments in reading and 10th and 11th grade  
14 assessment instruments in English language arts and evaluate those  
15 results as a single subject; and

16           (3) separately determine student performance for  
17 reading and mathematics as a percentage equal to the sum of students  
18 who performed satisfactorily on the specific subject area  
19 assessment instrument in all grade levels tested at all campuses  
20 operated by the charter holder divided by the number of students who  
21 took the specific subject area assessment instrument in grade  
22 levels tested at all campuses operated by the charter holder.

23       (d) To the extent consistent with this section, the  
24 commissioner shall use the methodology used to compute passing  
25 rates for reading and mathematics assessment instruments for  
26 purposes of determining accountability ratings under Chapter 39 for  
27 the 2004-2005 school year as provided by 19 T.A.C. Section 97.1002.

1       (e) This section expires January 1, 2008.

2       Sec. 11A.105. CHARTER GRANTED. Each charter the State  
3 Board of Education grants for a public charter district must:

4           (1) satisfy this chapter; and

5           (2) include the information that is required under  
6 Section 11A.103 consistent with the information provided in the  
7 application and any modification the board requires.

8       Sec. 11A.106. REVISION. (a) A revision of a charter of a  
9 public charter district may be made only with the approval of the  
10 commissioner.

11       (b) Not more than once each year, a public charter district  
12 may request approval to revise the maximum student enrollment  
13 described by the district's charter.

14       (c) The commissioner may not approve a charter revision that  
15 increases a public charter district's enrollment, increases the  
16 grade levels offered, increases the number of campuses, or changes  
17 the boundaries of the geographic area served by the program unless  
18 the commissioner determines that:

19           (1) the public charter district has operated one or  
20 more campuses for at least three school years;

21           (2) each campus operated by the public charter  
22 district has been rated at least academically acceptable under  
23 Subchapter D, Chapter 39, for each of its most recent three years of  
24 operation;

25           (3) each campus operated by the public charter  
26 district has achieved performance levels that are at least five  
27 percentage points above the applicable accountability standard for

1 academically acceptable performance on statewide assessments under  
2 Subchapter D, Chapter 39, as determined by the commissioner, for  
3 all tested subjects for each of its most recent two years of  
4 operation;

5 (4) the public charter district has been rated  
6 superior, above standard, standard, or the equivalent, under the  
7 financial accountability system under Subchapter I, Chapter 39;

8 (5) during the three years preceding the proposed  
9 charter revision, the public charter district and its campuses have  
10 not been subject to an intervention or sanction under Subchapter G,  
11 Chapter 39, including an intervention or sanction related to:

12 (A) the quality of data or reports required by  
13 state or federal law or court order;

14 (B) high school graduation requirements under  
15 Section 28.025; or

16 (C) the effectiveness of programs for special  
17 student populations; and

18 (6) the charter revision is in the best interest of  
19 students of this state.

20 (d) In making a determination under Subsection (c)(6), the  
21 commissioner shall review all available information relating to the  
22 charter holder, including the charter holder's:

23 (1) academic and financial performance;

24 (2) history of compliance with applicable laws;

25 (3) staffing, financial, and organizational data; and

26 (4) any other information regarding the charter  
27 holder's capacity to successfully implement the requested charter

1 revision.

2 (e) The commissioner may not approve a charter revision that  
3 proposes an increase in:

4 (1) a public charter district's enrollment, unless the  
5 charter holder adopts a business plan for implementing the  
6 enrollment increase that includes components identified by the  
7 commissioner; or

8 (2) the grade levels offered by a public charter  
9 district, unless the charter holder adopts an educational plan for  
10 the additional grade levels that includes components identified by  
11 the commissioner.

12 (f) The commissioner may approve a charter revision  
13 authorizing a public charter district to serve students in a  
14 geographical area that is not contiguous with the existing  
15 boundaries of the district, but may not approve a statewide  
16 geographical boundary.

17 Sec. 11A.107. BASIS FOR MODIFICATION, PLACEMENT ON  
18 PROBATION, OR REVOCATION. (a) The commissioner may modify, place  
19 on probation, or revoke the charter of a public charter district if  
20 the commissioner determines under Section 11A.108 that the charter  
21 holder:

22 (1) committed a material violation of the charter;

23 (2) failed to satisfy generally accepted accounting  
24 standards of fiscal management;

25 (3) failed to protect the health, safety, welfare, or  
26 best interests of the students enrolled at the public charter  
27 district; or

1           (4) failed to comply with this chapter or another  
2 applicable law or rule.

3           (b) The commissioner shall revoke the charter of a public  
4 charter district without a hearing if:

5           (1) in two consecutive years, the public charter  
6 district:

7                   (A) is rated academically unacceptable under  
8 Subchapter D, Chapter 39; or

9                   (B) is rated financially unacceptable by the  
10 commissioner under Subchapter I, Chapter 39; or

11           (2) all campuses operated by the public charter  
12 district have been ordered closed under Section 39.131(a) or  
13 39.1322(f).

14           (c) A revocation under Subsection (b)(1) is effective on  
15 January 1 following the school year in which the public charter  
16 district received a second unacceptable rating.

17           Sec. 11A.108. PROCEDURE FOR MODIFICATION, PLACEMENT ON  
18 PROBATION, OR REVOCATION. (a) The commissioner shall adopt a  
19 procedure to be used for modifying, placing on probation, or  
20 revoking the charter of a public charter district under Section  
21 11A.107(a).

22           (b) The procedure adopted under Subsection (a) must provide  
23 an opportunity for a hearing to the charter holder.

24           Sec. 11A.109. APPEAL OF MODIFICATION, PLACEMENT ON  
25 PROBATION, OR REVOCATION. A charter holder may appeal a  
26 modification, placement on probation, or revocation under this  
27 subchapter only in the manner provided by the applicable procedures

1 adopted by the commissioner under Section 11A.108. The charter  
2 holder may not otherwise appeal to the commissioner and may not  
3 appeal to a district court.

4 Sec. 11A.110. EFFECT OF REVOCATION OR SURRENDER OF CHARTER.

5 If the commissioner revokes a charter of a public charter district,  
6 if a district is ordered closed under Chapter 39, or if a public  
7 charter district surrenders its charter, the district may not:

8 (1) continue to operate under this chapter; or

9 (2) receive state funds under this chapter.

10 [Sections 11A.111-11A.150 reserved for expansion]

11 SUBCHAPTER D. POWERS AND DUTIES OF GOVERNING BODIES OF CHARTER

12 HOLDERS, PUBLIC CHARTER DISTRICTS, AND MANAGEMENT COMPANIES

13 Sec. 11A.151. RESPONSIBILITY FOR PUBLIC CHARTER DISTRICT.

14 The governing body of a charter holder is responsible for the  
15 management, operation, and accountability of the public charter  
16 district, regardless of whether the governing body delegates the  
17 governing body's powers and duties to another person.

18 Sec. 11A.152. COMPOSITION OF GOVERNING BODY OF CHARTER

19 HOLDER. The governing body of a charter holder must be composed of  
20 at least five members.

21 Sec. 11A.153. RESTRICTIONS ON SERVING AS MEMBER OF

22 GOVERNING BODY OF CHARTER HOLDER OR PUBLIC CHARTER DISTRICT OR AS  
23 OFFICER OR EMPLOYEE. (a) Except as provided by Subsection (b), a

24 person may not serve as a member of the governing body of a charter  
25 holder, as a member of the governing body of a public charter

26 district, or as an officer or employee of a public charter district  
27 if the person:

1           (1) has been convicted of a felony or a misdemeanor  
2 involving moral turpitude;

3           (2) has been convicted of an offense listed in Section  
4 37.007(a);

5           (3) has been convicted of an offense listed in Article  
6 62.01(5), Code of Criminal Procedure; or

7           (4) has a substantial interest in a management  
8 company.

9           (b) A person who has been convicted of an offense described  
10 by Subsection (a)(1), (2), or (3) may serve as a member of the  
11 governing body of a charter holder, as a member of the governing  
12 body of a public charter district, or as an officer or employee of a  
13 public charter district if the commissioner determines that the  
14 person is fit to serve in that capacity. In making a determination  
15 under this subsection, the commissioner shall consider:

16           (1) the factors described by Section 53.022,  
17 Occupations Code, for determining the extent to which a conviction  
18 relates to an occupation;

19           (2) the factors described by Section 53.023,  
20 Occupations Code, for determining the fitness of a person to  
21 perform the duties and discharge the responsibilities of an  
22 occupation; and

23           (3) other appropriate factors, as determined by the  
24 commissioner.

25           (c) For purposes of Subsection (a)(4), a person has a  
26 substantial interest in a management company if the person or a  
27 relative within the third degree by consanguinity or affinity, as

1 determined under Chapter 573, Government Code:

2 (1) has a controlling interest in the company;

3 (2) owns more than 10 percent of the voting interest in  
4 the company;

5 (3) owns more than \$25,000 of the fair market value of  
6 the company;

7 (4) has a direct or indirect participating interest by  
8 shares, stock, or otherwise, regardless of whether voting rights  
9 are included, in more than 10 percent of the profits, proceeds, or  
10 capital gains of the company;

11 (5) is a member of the board of directors or other  
12 governing body of the company;

13 (6) serves as an elected officer of the company; or

14 (7) is an employee of the company.

15 Sec. 11A.154. LIABILITY OF MEMBERS OF GOVERNING BODY OF  
16 CHARTER HOLDER. (a) Notwithstanding the Texas Non-Profit  
17 Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil  
18 Statutes), Chapter 22, Business Organizations Code, or other law,  
19 on request of the commissioner, the attorney general shall bring  
20 suit against a member of the governing body of a charter holder for  
21 breach of a fiduciary duty by the member, including misapplication  
22 of public funds.

23 (b) The attorney general may bring suit under Subsection (a)  
24 for:

25 (1) damages;

26 (2) injunctive relief; or

27 (3) any other equitable remedy determined to be

1 appropriate by the court.

2 (c) This section is cumulative of all other remedies.

3 Sec. 11A.155. TRAINING FOR MEMBERS OF GOVERNING BODY OF  
4 CHARTER HOLDER. (a) The commissioner shall adopt rules  
5 prescribing training for members of governing bodies of charter  
6 holders.

7 (b) The rules adopted under Subsection (a) may:

8 (1) specify the minimum amount and frequency of the  
9 training;

10 (2) require the training to be provided by:

11 (A) the agency and regional education service  
12 centers;

13 (B) entities other than the agency and service  
14 centers, subject to approval by the commissioner; or

15 (C) both the agency, service centers, and other  
16 entities; and

17 (3) require training to be provided concerning:

18 (A) basic school law, including school finance;

19 (B) health and safety issues;

20 (C) accountability requirements related to the  
21 use of public funds; and

22 (D) other requirements relating to  
23 accountability to the public, such as open meetings requirements  
24 under Chapter 551, Government Code, and public information  
25 requirements under Chapter 552, Government Code.

26 Sec. 11A.156. BYLAWS; ANNUAL REPORT. (a) A charter holder  
27 shall file with the commissioner a copy of its articles of

1 incorporation and bylaws, or comparable documents if the charter  
2 holder does not have articles of incorporation or bylaws, within  
3 the period and in the manner prescribed by the commissioner.

4 (b) Each public charter district shall file annually with  
5 the commissioner the following information in a form prescribed by  
6 the commissioner:

7 (1) the name, address, and telephone number of each  
8 officer and member of the governing body of the charter holder; and

9 (2) the amount of annual compensation the public  
10 charter district pays to each officer and member of the governing  
11 body.

12 Sec. 11A.157. QUARTERLY FINANCIAL REPORTS REQUIRED. During  
13 a public charter district's first year of operation, the charter  
14 holder shall submit quarterly financial reports to the  
15 commissioner. The commissioner by rule shall determine the form  
16 and content of the financial reports under this section.

17 Sec. 11A.158. PEIMS INFORMATION. The governing body of a  
18 public charter district shall comply with Section 7.007.

19 Sec. 11A.159. LIABILITY OF MANAGEMENT COMPANY. (a) A  
20 management company that provides management services to a public  
21 charter district is liable for damages incurred by the state or a  
22 school district as a result of the failure of the company to comply  
23 with its contractual or other legal obligation to provide services  
24 to the district.

25 (b) On request of the commissioner, the attorney general may  
26 bring suit on behalf of the state against a management company  
27 liable under Subsection (a) for:

1           (1) damages, including any state funding received by  
2 the company and any consequential damages suffered by the state;

3           (2) injunctive relief; or

4           (3) any other equitable remedy determined to be  
5 appropriate by the court.

6           (c) This section is cumulative of all other remedies and  
7 does not affect:

8           (1) the liability of a management company to the  
9 charter holder; or

10           (2) the liability of a charter holder, a member of the  
11 governing body of a charter holder, or a member of the governing  
12 body of a public charter district to the state.

13           Sec. 11A.160. LOANS FROM MANAGEMENT COMPANY PROHIBITED.

14           (a) The charter holder or the governing body of a public charter  
15 district may not accept a loan from a management company that has a  
16 contract to provide management services to:

17           (1) the district; or

18           (2) another public charter district that operates  
19 under a charter granted to the charter holder.

20           (b) A charter holder or the governing body of a public  
21 charter district that accepts a loan from a management company may  
22 not enter into a contract with that management company to provide  
23 management services to the district.

24           Sec. 11A.161. CONTRACT FOR MANAGEMENT SERVICES. Any  
25 contract, including a contract renewal, between a public charter  
26 district and a management company proposing to provide management  
27 services to the district must require the management company to

1 maintain all records related to the management services separately  
2 from any other records of the management company.

3 Sec. 11A.162. CERTAIN MANAGEMENT SERVICES CONTRACTS  
4 PROHIBITED. The commissioner may prohibit, deny renewal of,  
5 suspend, or revoke a contract between a public charter district and  
6 a management company providing management services to the district  
7 if the commissioner determines that the management company has:

8 (1) failed to provide educational or related services  
9 in compliance with the company's contractual or other legal  
10 obligation to any public charter district in this state or to any  
11 other similar entity in another state;

12 (2) failed to protect the health, safety, or welfare  
13 of the students enrolled at a public charter district served by the  
14 company;

15 (3) violated this chapter or a rule adopted under this  
16 chapter; or

17 (4) otherwise failed to comply with any contractual or  
18 other legal obligation to provide services to the district.

19 [Sections 11A.163-11A.200 reserved for expansion]

20 SUBCHAPTER E. FUNDING AND FINANCIAL OPERATIONS

21 Sec. 11A.201. STATE FUNDING. (a) To the extent consistent  
22 with Subsection (c), a charter holder is entitled to receive for the  
23 public charter district funding under Chapter 42 as if the public  
24 charter district were a school district without a local share for  
25 purposes of Section 42.306 and without any local revenue ("LR") for  
26 purposes of Section 42.252. In determining funding for a public  
27 charter district, adjustments under Sections 42.301, 42.302, and

1 42.303 and the district enrichment tax rate ("DETR") under Section  
2 42.252 are based on the average adjustment and average district  
3 enrichment tax rate for the state.

4 (a-1) Notwithstanding Subsection (a), an entity granted a  
5 charter under Section 11A.1041 is entitled to receive funding for  
6 each student in weighted average daily attendance in an amount  
7 equal to the greater of the amount determined under Subsection (a)  
8 or the amount to which the entity was entitled for the 2003-2004 or  
9 2004-2005 school year, as determined by the commissioner. A  
10 determination of the commissioner under this subsection is final  
11 and not subject to appeal. This subsection expires September 1,  
12 2013.

13 (b) To the extent consistent with Subsection (c), a public  
14 charter district is entitled to funds that are available to school  
15 districts from the agency or the commissioner, including grants and  
16 other discretionary funding and any teacher incentive payments  
17 under Section 39.113, unless the statute authorizing the funding  
18 explicitly provides that a public charter district is not entitled  
19 to the funding.

20 (c) A charter holder is entitled to receive for a public  
21 charter district funding under this section only if the holder:

22 (1) provides information for the Public Education  
23 Information Management System (PEIMS) as required by this chapter;

24 (2) submits to the commissioner appropriate fiscal and  
25 financial records as required by this chapter and the commissioner;  
26 and

27 (3) receives an annual unqualified opinion in the

1 standard report filed pursuant to Section 11A.210.

2 (d) The commissioner shall suspend the funding of a charter  
3 holder that fails to comply with Subsection (c) until the  
4 commissioner determines that the charter holder is in compliance or  
5 has cured any noncompliance and has adopted adequate procedures to  
6 prevent future noncompliance.

7 (e) The commissioner may adopt rules to provide and account  
8 for state funding of public charter districts under this section. A  
9 rule adopted under this section may be similar to a provision of  
10 this code that is not similar to Section 11A.052(b) if the  
11 commissioner determines that the rule is related to financing of  
12 public charter districts and is necessary or prudent to provide or  
13 account for state funds.

14 Sec. 11A.2011. ADDITIONAL STATE AID FOR CERTAIN STAFF  
15 SALARIES. (a) This section applies to a charter holder that on  
16 January 1, 2005, operated an open-enrollment charter school under  
17 former Subchapter D, Chapter 12.

18 (b) A charter holder that participated in the program under  
19 Chapter 1579, Insurance Code, for the 2004-2005 school year is  
20 entitled to state aid in an amount, as determined by the  
21 commissioner, equal to the difference, if any, between:

22 (1) an amount equal to the product of \$3,000  
23 multiplied by the number of classroom teachers, full-time  
24 librarians, and full-time counselors certified under Subchapter B,  
25 Chapter 21, and full-time school nurses appropriately licensed  
26 under Chapter 301, Occupations Code, who are employed by the  
27 charter holder at a public charter district; and

1           (2) the amount of additional money to which the  
2 charter holder is entitled as a result of S.B. No. 8, Acts of the  
3 79th Legislature, 2nd Called Session, 2005.

4           (c) A charter holder that did not participate in the program  
5 under Chapter 1579, Insurance Code, for the 2004-2005 school year  
6 is entitled to state aid in an amount, as determined by the  
7 commissioner, equal to the difference, if any, between:

8           (1) an amount equal to the product of \$2,000  
9 multiplied by the number of classroom teachers, full-time  
10 librarians, and full-time counselors certified under Subchapter B,  
11 Chapter 21, and full-time school nurses appropriately licensed  
12 under Chapter 301, Occupations Code, who are employed by the  
13 charter holder at a public charter district; and

14           (2) the amount of additional money to which the  
15 charter holder is entitled as a result of S.B. No. 8, Acts of the  
16 79th Legislature, 2nd Called Session, 2005.

17           (d) A charter holder is not entitled to funds under  
18 Subsection (b) or (c) if the amount of additional funds to which the  
19 charter holder is entitled as a result of S.B. No. 8, Acts of the  
20 79th Legislature, 2nd Called Session, 2005, is sufficient to pay  
21 the amounts described by Subsection (b) or (c), as determined by the  
22 commissioner.

23           Sec. 11A.202. INSTRUCTIONAL FACILITIES ALLOTMENTS. (a) In  
24 this section, "instructional facility" has the meaning assigned by  
25 Section 46.001.

26           (b) A charter holder is initially eligible for  
27 instructional facilities allotments in accordance with this

1 section if:

2 (1) any campus of a public charter district for which  
3 the charter holder has been granted a license has for two  
4 consecutive school years been rated exemplary or recognized under  
5 Subchapter D, Chapter 39, or has performed at a comparable level, as  
6 determined by the commissioner for purposes of this section; and

7 (2) on the most recent audit of the financial  
8 operations of the district conducted pursuant to Section 11A.210,  
9 the district has satisfied generally accepted accounting standards  
10 of fiscal management as evidenced by an unqualified opinion in the  
11 standard report issued and filed pursuant to Section 11A.210.

12 (b-1) Notwithstanding Subsection (b), a charter holder is  
13 eligible for instructional facilities allotments for the 2006-2007  
14 school year in accordance with this section if any campus of a  
15 public charter district for which the charter holder has been  
16 granted a license has been rated exemplary or recognized under  
17 Subchapter D, Chapter 39, for at least two of the 2003-2004,  
18 2004-2005, and 2005-2006 school years.

19 (b-2) Subsection (b-1) and this subsection expire September  
20 1, 2007.

21 (c) Once a public charter district satisfies the initial  
22 eligibility requirements under Subsection (b) and receives an  
23 allotment under this section, the district continues to remain  
24 eligible until the district receives an accountability rating of  
25 unacceptable under Subchapter D, Chapter 39, at which point the  
26 district is again subject to the eligibility requirements of  
27 Subsection (b).

1       (d) The commissioner annually shall review the eligibility  
2 of a public charter district campus for purposes of this section.

3       (e) Except as otherwise provided by this section, a charter  
4 holder is entitled to an annual allotment in an amount determined by  
5 the commissioner, not to exceed \$1,000 or a different amount  
6 provided by appropriation, for each student in average daily  
7 attendance during the preceding year at a campus of a public charter  
8 district that is eligible for an allotment under this section.

9       (f) A charter holder who receives funds under this section  
10 may use the funds only to:

11           (1) purchase real property on which to construct an  
12 instructional facility for a public charter district campus for  
13 which the funds were paid under Subsection (e);

14           (2) purchase, lease, construct, expand, or renovate  
15 instructional facilities for a public charter district campus for  
16 which the funds were paid under Subsection (e);

17           (3) pay debt service in connection with instructional  
18 facilities purchased or improved for a campus of the public charter  
19 district that meets the requirements under Subsection (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 purposes  
26 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 purpose  
10 specified under Section 11A.202(f) in the case of funds received  
11 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 for  
17 the charter holder pursuant to a bond indenture agreement requiring  
18 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, the  
24 court shall use the criteria adopted by the commissioner under  
25 Subsection (c). Except as otherwise provided by this subsection,  
26 the court shall enter any order under this subsection concerning  
27 public funds held by the charter holder necessary to best serve the

1 interests of the students of a public charter district. In the case  
2 of a public charter district that has ceased to operate, the court  
3 shall enter any order under this subsection concerning public funds  
4 held by the charter holder necessary to best serve the interests of  
5 this state.

6 Sec. 11A.204. DEPOSITORY CONTRACT; BOND. (a) Each bank  
7 selected as a school depository and the charter holder shall enter  
8 into a depository contract, bond, or other necessary instrument  
9 setting forth the duties and agreements pertaining to the  
10 depository, in a form and with the content prescribed by the State  
11 Board of Education.

12 (b) The depository bank shall attach to the contract and  
13 file with the charter holder a bond in an initial amount equal to  
14 the estimated highest daily balance, determined by the charter  
15 holder, of all deposits that the charter holder will have in the  
16 depository during the term of the contract, less any applicable  
17 Federal Deposit Insurance Corporation insurance. The bond must be  
18 payable to the charter holder and must be signed by the depository  
19 bank and by a surety company authorized to engage in business in  
20 this state. The depository bank shall increase the amount of the  
21 bond if the charter holder determines the increase is necessary to  
22 adequately protect the funds of the charter holder deposited with  
23 the depository bank.

24 (c) The bond shall be conditioned on:

25 (1) the faithful performance of all duties and  
26 obligations imposed by law on the depository;

27 (2) the payment on presentation of all checks or

1 drafts on order of the charter holder, in accordance with its orders  
2 entered by the charter holder according to law;

3 (3) the payment on demand of any demand deposit in the  
4 depository;

5 (4) the payment, after the expiration of the period of  
6 notice required, of any time deposit in the depository;

7 (5) the faithful keeping of school funds by the  
8 depository and the accounting for the funds according to law; and

9 (6) the faithful paying over to the successor  
10 depository all balances remaining in the accounts.

11 (d) The bond and the surety on the bond must be approved by  
12 the charter holder. A premium on the depository bond may not be  
13 paid out of charter holder funds related to operation of the public  
14 charter district.

15 (e) The charter holder shall file a copy of the depository  
16 contract and bond with the agency.

17 (f) Instead of the bond required under Subsection (b), the  
18 depository bank may deposit or pledge, with the charter holder or  
19 with a trustee designated by the charter holder, approved  
20 securities, as defined by Section 45.201, in an amount sufficient  
21 to adequately protect the funds of the charter holder deposited  
22 with the depository bank. A depository bank may give a bond and  
23 deposit or pledge approved securities in an aggregate amount  
24 sufficient to adequately protect the funds of the charter holder  
25 deposited with the depository bank. The charter holder shall  
26 periodically designate the amount of approved securities or the  
27 aggregate amount of the bond and approved securities necessary to

1 adequately protect the charter holder. The charter holder may not  
2 designate an amount less than the balance of charter holder funds on  
3 deposit with the depository bank from day to day, less any  
4 applicable Federal Deposit Insurance Corporation insurance. The  
5 depository bank may substitute approved securities on obtaining the  
6 approval of the charter holder. For purposes of this subsection,  
7 the approved securities are valued at their market value.

8 Sec. 11A.205. EFFECT OF ACCEPTING STATE FUNDING. A charter  
9 holder who accepts state funds under Section 11A.201 or 11A.202  
10 agrees to be subject to all requirements, prohibitions, and  
11 sanctions authorized under this chapter.

12 Sec. 11A.206. PROPERTY PURCHASED OR LEASED WITH STATE  
13 FUNDS. (a) Property purchased or leased with funds received by a  
14 charter holder under Section 11A.201 or 11A.202:

15 (1) is considered to be public property for all  
16 purposes under state law;

17 (2) is held in trust by the charter holder for the  
18 benefit of this state and the students of the public charter  
19 district; and

20 (3) may be used only for a purpose for which a school  
21 district may use school district property.

22 (b) The commissioner shall:

23 (1) take possession and assume control of the property  
24 described by Subsection (a) of a public charter district that  
25 ceases to operate; and

26 (2) supervise the disposition of the property in  
27 accordance with law.

1       (c) This section does not affect the priority of a security  
2 interest in or lien on property established by a creditor in  
3 compliance with law if the security interest or lien arose in  
4 connection with the sale or lease of the property to the charter  
5 holder.

6       (d) The commissioner shall adopt rules for identifying  
7 public property in accordance with Subsection (a).

8       (e) The commissioner may bring an action in district court  
9 in Travis County for injunctive or other relief to enforce this  
10 section. In identifying public property held by a charter holder,  
11 the court shall use the criteria adopted by the commissioner under  
12 Subsection (d). Except as otherwise provided by this subsection,  
13 the court shall enter any order under this subsection concerning  
14 public property held by the charter holder necessary to best serve  
15 the interests of the students of a public charter district. In the  
16 case of a public charter district that has ceased to operate, the  
17 court shall enter any order under this subsection concerning public  
18 property held by the charter holder necessary to best serve the  
19 interests of this state. The court may order title to real or  
20 personal public property held by the charter holder transferred to  
21 a trust established for the purpose of managing the property or may  
22 make other disposition of the property necessary to best serve the  
23 interests of this state.

24       Sec. 11A.207. USE OF MUNICIPAL FUNDS FOR PUBLIC CHARTER  
25 DISTRICT LAND OR FACILITIES. A municipality to which a charter is  
26 granted under this chapter may borrow funds, issue obligations, or  
27 otherwise spend its funds to acquire land or acquire, construct,

1 expand, or renovate school buildings or facilities and related  
2 improvements for its public charter district within the city limits  
3 of the municipality in the same manner the municipality is  
4 authorized to borrow funds, issue obligations, or otherwise spend  
5 its funds in connection with any other public works project.

6 Sec. 11A.208. FUNDING FOR INSTRUCTIONAL MATERIALS AND  
7 TECHNOLOGY. A public charter district is entitled to funding for  
8 instructional materials under Chapter 31 and technology under  
9 Subchapter A, Chapter 32, and is subject to those provisions as if  
10 the public charter district were a school district.

11 Sec. 11A.209. ANNUAL BUDGET. The governing body of a public  
12 charter district shall annually adopt a budget for the district.

13 Sec. 11A.210. ANNUAL AUDIT. The governing body of a public  
14 charter district shall conduct an annual audit in a manner that  
15 complies with Section 44.008.

16 [Sections 11A.211-11A.250 reserved for expansion]

17 SUBCHAPTER F. OPERATION OF PUBLIC CHARTER DISTRICT

18 Sec. 11A.251. ADMISSION POLICY. (a) Except as provided by  
19 this section, a public charter district may not discriminate in  
20 admission policy on the basis of sex, national origin, ethnicity,  
21 religion, disability, or academic, artistic, or athletic ability or  
22 the district the child would otherwise attend in accordance with  
23 this code.

24 (b) A public charter district admission policy may provide  
25 for the exclusion of a student who has a documented history of a  
26 criminal offense, a juvenile court adjudication, or discipline  
27 problems under Subchapter A, Chapter 37.

1       (c) A public charter district admission policy may require a  
2 student to demonstrate artistic ability if the school specializes  
3 in performing arts.

4       Sec. 11A.252. ADMISSION OF STUDENTS. (a) For admission to  
5 a public charter district campus, the governing body of the  
6 district shall:

7           (1) require the applicant to complete and submit an  
8 application not later than a reasonable deadline the district  
9 establishes; and

10          (2) on receipt of more acceptable applications for  
11 admission under this section than available positions in the  
12 school:

13                   (A) fill the available positions by lottery; or

14                   (B) subject to Subsection (b), fill the available  
15 positions in the order in which applications received before the  
16 application deadline were received.

17          (b) A public charter district may fill applications for  
18 admission under Subsection (a)(2)(B) only if the district published  
19 a notice of the opportunity to apply for admission to the district.

20 A notice published under this subsection must:

21                   (1) state the application deadline;

22                   (2) be published in a newspaper of general circulation  
23 in the community in which the district campus is located not later  
24 than the seventh day before the application deadline; and

25                   (3) be made available on the public charter district's  
26 Internet website, if available.

27          (c) A public charter district may exempt an applicant from

1 the requirements of Subsection (a)(2) if the applicant is:

2 (1) the child or grandchild of a member of the  
3 governing body of the charter holder at the time the district's  
4 charter was first granted;

5 (2) the child of an employee of the district or the  
6 charter holder; or

7 (3) a sibling of a student who is enrolled in the  
8 district.

9 (d) A public charter district that specializes in one or  
10 more performing arts may require an applicant to audition for  
11 admission to the school.

12 Sec. 11A.253. STUDENT ENROLLMENT. (a) Except as provided  
13 by Subsection (b) or as otherwise determined impracticable by the  
14 commissioner, during a public charter district's first year of  
15 operation, the district must have a student enrollment of at least  
16 100 and not more than 500 at any time during the school year.

17 (b) A public charter district may have a student enrollment  
18 of less than 100 if approved by the commissioner.

19 (c) Not later than a public charter district's third year of  
20 operation, at least 25 percent of the district's students must be  
21 enrolled in one or more grade levels for which assessment  
22 instruments are administered under Section 39.023(a).

23 (d) The commissioner may grant a waiver from the  
24 requirements of Subsection (c) for a public charter district that  
25 opens a campus serving prekindergarten or kindergarten students and  
26 agrees to:

27 (1) add at least one higher grade level class each

1 school year after opening the campus; and

2 (2) until the campus complies with Subsection (c),  
3 adopt accountability measures to assess the performance of the  
4 students not assessed under Section 39.023(a).

5 (e) The commissioner may grant a waiver from the  
6 requirements of Subsection (c) for a public charter district that  
7 was operating an open-enrollment charter school campus on January  
8 1, 2005, serving prekindergarten, kindergarten, and first, second,  
9 and third grade students if the public charter district:

10 (1) adopts one or more nationally norm-referenced  
11 assessment instruments approved by the commissioner;

12 (2) administers the assessment instruments to its  
13 second grade students at intervals and in the manner specified by  
14 commissioner rule; and

15 (3) meets the applicable standards for student  
16 performance on the assessment instruments, as determined by  
17 commissioner rule.

18 (f) The commissioner shall adopt rules necessary to  
19 implement this section.

20 Sec. 11A.254. TUITION AND FEES RESTRICTED. (a) A public  
21 charter district may not charge tuition to an eligible student who  
22 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 governing  
26 body may not require a student to pay a fee that the board of  
27 trustees of a school district may not charge under Section

1 11.158(b).

2 Sec. 11A.255. TRANSPORTATION. A public charter district  
3 shall provide transportation to each student attending the school  
4 to the same extent a school district is required by law to provide  
5 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 of  
9 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 conduct  
18 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 the  
21 district's code of conduct as conduct that may result in expulsion.

22 (e) Section 37.002 does not apply to a public charter  
23 district except to the extent specified by the governing body of the  
24 public charter district in the district's code of conduct.

25 [Sections 11A.257-11A.300 reserved for expansion]

26 SUBCHAPTER G. PUBLIC CHARTER DISTRICT EMPLOYEES

27 Sec. 11A.301. MINIMUM TEACHER QUALIFICATIONS. (a) Except

1 as otherwise required by this section or chapter, a person employed  
2 as a teacher by a public charter district must hold a high school  
3 diploma.

4 (b) To the extent required by federal law, including 20  
5 U.S.C. Section 7801(11), a person employed as a teacher by a public  
6 charter district must hold a baccalaureate degree.

7 Sec. 11A.302. NOTICE OF PROFESSIONAL EMPLOYEE  
8 QUALIFICATIONS. (a) Each public charter district shall provide to  
9 the parent or guardian of each student enrolled at a campus in the  
10 district written notice of the qualifications of each professional  
11 employee, including each teacher, employed at the campus.

12 (b) The notice must include:

13 (1) any professional or educational degree held by the  
14 employee;

15 (2) a statement of any certification under Subchapter  
16 B, Chapter 21, held by the employee; and

17 (3) any relevant experience of the employee.

18 Sec. 11A.303. COLLECTION OF FINGERPRINTS REQUIRED. The  
19 governing body of a public charter district shall obtain a complete  
20 set of fingerprints from each person described by Section  
21 21.0032(a).

22 Sec. 11A.304. CRIMINAL HISTORY AND DISCIPLINARY HISTORY OF  
23 CERTAIN APPLICANTS. A public charter district must comply with  
24 Section 21.0032 before employing or otherwise securing the services  
25 of a person as a teacher, teacher intern or trainee, librarian,  
26 educational aide, administrator, or counselor, regardless of  
27 whether the applicant is certified under 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 qualifies  
3 for membership in the Teacher Retirement System of Texas shall be  
4 covered under the system to the same extent a qualified employee of  
5 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 responsible  
10 for making contributions to the same extent it would be legally  
11 responsible if the employee were a school district employee.

12       Sec. 11A.306. WAGE INCREASE FOR CERTAIN PROFESSIONAL STAFF.

13       (a) This section applies to a charter holder that on January 1,  
14 2005, operated an open-enrollment charter school under former  
15 Subchapter D, Chapter 12.

16       (b) Using state funds received by the charter holder for  
17 that purpose under Section 11A.2011, each school year a charter  
18 holder that participated in the program under Chapter 1579,  
19 Insurance Code, for the 2004-2005 school year shall provide  
20 employees of the charter holder, other than administrators,  
21 compensation in the form of annual salaries, incentives, or other  
22 compensation determined appropriate by the charter holder that  
23 results in an average compensation increase for the employees of  
24 \$3,000.

25       (c) Using state funds received by the charter holder for  
26 that purpose under Section 11A.2011, each school year a charter  
27 holder that did not participate in the program under Chapter 1579,

1 Insurance Code, for the 2004-2005 school year shall provide  
2 employees of the charter holder, other than administrators,  
3 compensation in the form of annual salaries, incentives, or other  
4 compensation determined appropriate by the charter holder that  
5 results in an average compensation increase for the employees of  
6 \$2,000.

7 (d) A payment under this section is in addition to wages the  
8 charter holder would otherwise pay the employee during the school  
9 year.

10 [Sections 11A.307-11A.350 reserved for expansion]

11 SUBCHAPTER H. POWERS AND DUTIES OF COMMISSIONER

12 Sec. 11A.351. AUDIT. (a) To the extent consistent with  
13 this section, the commissioner may audit the records of:

14 (1) a public charter district or campus;

15 (2) a charter holder; and

16 (3) a management company.

17 (b) An audit under Subsection (a) must be limited to matters  
18 directly related to the management or operation of a public charter  
19 district, including any financial, student, and administrative  
20 records.

21 (c) Unless the commissioner has specific cause to conduct an  
22 additional audit, the commissioner may not conduct more than one  
23 on-site audit of a public charter district under this section  
24 during any fiscal year, including any audit of financial, student,  
25 and administrative records. For purposes of this subsection, an  
26 audit of a charter holder or management company associated with a  
27 public charter district is not considered an audit of the district.

1       Sec. 11A.352. SUBPOENA. (a) The commissioner may issue a  
2 subpoena to compel the attendance and testimony of a witness or the  
3 production of materials relevant to an audit or investigation under  
4 this chapter.

5       (b) A subpoena may be issued throughout the state and may be  
6 served by any person designated by the commissioner.

7       (c) If a person fails to comply with a subpoena issued under  
8 this section, the commissioner, acting through the attorney  
9 general, may file suit to enforce the subpoena in a district court  
10 in Travis County or in the county in which the audit or  
11 investigation is conducted. The court shall order compliance with  
12 the subpoena if the court finds that good cause exists to issue the  
13 subpoena.

14       (d) This section expires September 1, 2007.

15       Sec. 11A.353. SANCTIONS. (a) The commissioner shall take  
16 any of the actions described by Subsection (b) or by Section  
17 39.131(a), to the extent the commissioner determines necessary, if  
18 a public charter district, as determined by a report issued under  
19 Section 39.076(b):

20           (1) commits a material violation of the district's  
21 charter;

22           (2) fails to satisfy generally accepted accounting  
23 standards of fiscal management; or

24           (3) fails to comply with this chapter or another  
25 applicable rule or law.

26       (b) The commissioner may temporarily withhold funding,  
27 suspend the authority of a public charter district to operate, or

1 take any other reasonable action the commissioner determines  
2 necessary to protect the health, safety, or welfare of students  
3 enrolled at a district campus based on evidence that conditions at  
4 the district campus present a danger to the health, safety, or  
5 welfare of the students.

6 (c) After the commissioner acts under Subsection (b), the  
7 public charter district may not receive funding and may not resume  
8 operating until a determination is made that:

9 (1) despite initial evidence, the conditions at the  
10 district campus do not present a danger of material harm to the  
11 health, safety, or welfare of students; or

12 (2) the conditions at the district campus that  
13 presented a danger of material harm to the health, safety, or  
14 welfare of students have been corrected.

15 (d) Not later than the third business day after the date the  
16 commissioner acts under Subsection (b), the commissioner shall  
17 provide the charter holder an opportunity for a hearing. This  
18 subsection does not apply to an action taken by the commissioner  
19 under Chapter 39.

20 (e) Immediately after a hearing under Subsection (d), the  
21 commissioner must cease the action under Subsection (b) or initiate  
22 action under Section 11A.108.

23 Sec. 11A.3531. SUPERVISION OF ADMINISTRATION OF CERTAIN  
24 ASSESSMENT INSTRUMENTS. (a) Using funds appropriated for the  
25 Foundation School Program, the commissioner shall reduce the total  
26 amount of state funds allocated to each district from any source in  
27 the same manner described for a reduction in allotments under

1 Section 42.313 and adopt and implement a program for supervising  
2 the administration of assessment instruments under Section 39.023  
3 during the 2005-2006 school year at an open-enrollment charter  
4 school, other than a school operated by an entity described by  
5 Section 11A.1041(a)(2), (3), or (4), at which less than 25 percent  
6 of all students enrolled at the school and administered an  
7 assessment instrument under Section 39.023(a), (c), or (l)  
8 performed satisfactorily on:

9 (1) the assessment instrument in mathematics, as  
10 determined by the school's assessment instrument results for the  
11 2004-2005 school year; or

12 (2) the assessment instrument in reading or English  
13 language arts, as applicable, as determined by the school's  
14 assessment instrument results for the 2004-2005 school year.

15 (b) The program adopted under Subsection (a) must be  
16 designed to:

17 (1) ensure that the location at which an assessment  
18 instrument is administered is secure and under the supervision of  
19 persons who do not have any interest in the results of the  
20 assessment instrument; and

21 (2) provide direct supervision of:

22 (A) the transportation of the assessment  
23 instrument materials to and from the location at which the  
24 instrument is administered; and

25 (B) the administration of the assessment  
26 instrument to students.

27 (c) The commissioner may adopt rules necessary to

1 administer this section and may take any action that the  
2 commissioner determines necessary to ensure the integrity of the  
3 results of an assessment instrument administered at an  
4 open-enrollment charter school described by Subsection (a).

5 (d) After deducting the amount withheld under Subsection  
6 (a) from the total amount appropriated for the Foundation School  
7 Program, the commissioner shall reduce the total amount of state  
8 funds allocated to each district from any source in the same manner  
9 described for a reduction in allotments under Section 42.313.

10 (e) An open-enrollment charter school's failure to fully  
11 cooperate with the commissioner under this section is sufficient  
12 grounds for revocation of the district's charter, as determined by  
13 the commissioner.

14 (f) This section expires September 1, 2006.

15 Sec. 11A.354. CONSULTATION WITH CHARTER HOLDERS. The  
16 commissioner shall periodically consult with representatives of  
17 charter holders regarding the duties and mission of the agency  
18 relating to the operation of public charter districts. The  
19 commissioner shall determine the frequency of the consultations.

20 Sec. 11A.355. EFFECT ON COMMISSIONER'S AUTHORITY. Nothing  
21 in this chapter may be construed to limit the commissioner's  
22 authority under Chapter 39.

23 Sec. 11A.356. RULES. The commissioner may adopt rules for  
24 the administration of this chapter.

25 [Sections 11A.357-11A.400 reserved for expansion]

26 SUBCHAPTER I. BLUE RIBBON CHARTER CAMPUS PILOT PROGRAM

27 Sec. 11A.401. AUTHORIZATION. (a) In this section,

1 "eligible entity" means an organization that is exempt from  
2 taxation under Section 501(a), Internal Revenue Code of 1986, as an  
3 organization described by Section 501(c)(3) of that code.

4 (b) In accordance with this subchapter, the commissioner  
5 may authorize not more than three charter holders to grant a charter  
6 to an eligible entity to operate a blue ribbon charter campus if:

7 (1) the charter holder proposes to grant the blue  
8 ribbon charter to replicate a distinctive education program;

9 (2) the charter holder has demonstrated the ability to  
10 replicate the education program;

11 (3) the education program has been implemented by the  
12 charter holder for at least seven school years; and

13 (4) the charter school in which the charter holder has  
14 implemented the program has been rated recognized or exemplary  
15 under Section 39.072 for at least five school years.

16 (b-1) An eligible entity that assumed operation of an  
17 existing charter school program during the seven years preceding  
18 the proposed authorization under Subsection (b) may be authorized  
19 to grant a blue ribbon charter under Subsection (b) if:

20 (1) the performance level of the program at a campus  
21 before and after the entity assumed operation of the program meets  
22 the qualifications described by Subsection (b); and

23 (2) the entity has met the qualifications described by  
24 Subsection (b) since assuming operation of the program.

25 (c) A charter holder may grant a blue ribbon charter only to  
26 an applicant that meets any financial, governing, and operational  
27 standards adopted by the commissioner under this subchapter.

1       (d) A charter holder may grant not more than two blue ribbon  
2 charters under this subchapter.

3       Sec. 11A.402. APPLICABILITY OF CERTAIN LAWS. (a) A blue  
4 ribbon charter campus is considered a public charter district  
5 campus for purposes of state and federal law.

6       (b) A blue ribbon charter granted under this subchapter is  
7 not considered for purposes of the limit on the number of public  
8 charter districts imposed by Section 11A.002.

9       Sec. 11A.403. RELATIONSHIP BETWEEN CHARTER HOLDER AND BLUE  
10 RIBBON CHARTER CAMPUS. (a) The governing body of the public  
11 charter district authorizing a blue ribbon charter is responsible  
12 for the management and operation of the campus operated under a  
13 blue ribbon charter. A blue ribbon charter campus is subject to the  
14 rules and policies of the governing body of the charter holder that  
15 granted the blue ribbon charter.

16       (b) For purposes of academic and financial accountability  
17 and all other purposes under this chapter and Chapter 39, a blue  
18 ribbon charter campus is considered a campus of the public charter  
19 district operated by the charter holder that granted the blue  
20 ribbon charter.

21       (c) A charter holder is entitled to receive funding for a  
22 blue ribbon charter campus as if the blue ribbon charter campus were  
23 a campus of the public charter district operated by the charter  
24 holder.

25       Sec. 11A.404. APPLICATION FOR AUTHORIZATION. (a) The  
26 commissioner by rule shall adopt an application form and procedures  
27 for a charter holder to apply for authorization to grant a blue

1 ribbon charter to an eligible entity under this subchapter.

2 (b) The application must specify:

3 (1) the criteria that will be used to grant blue ribbon  
4 charters;

5 (2) procedures for governance and management of  
6 campuses operating under a blue ribbon charter; and

7 (3) the performance standard by which continuation of  
8 a blue ribbon charter will be determined.

9 (c) A determination by the commissioner regarding an  
10 application under this section is final and may not be appealed.

11 Sec. 11A.405. REVOCATION OF AUTHORIZATION. (a) The  
12 commissioner may revoke a charter holder's authorization to grant a  
13 blue ribbon charter or operate a campus granted a blue ribbon  
14 charter if the commissioner determines that the purposes of this  
15 subchapter are not being satisfied.

16 (b) On revocation of a charter holder's authority under this  
17 section, the charter holder shall:

18 (1) operate a campus granted a blue ribbon charter as a  
19 standard campus of the charter holder under this chapter; or

20 (2) close the campus effective at the end of the school  
21 year in which the commissioner revokes the authorization.

22 Sec. 11A.406. CONTENT. (a) Each blue ribbon charter  
23 granted under this subchapter must:

24 (1) describe the educational program to be offered,  
25 which may be a general or specialized education program;

26 (2) provide that continuation of the charter is  
27 contingent on satisfactory student performance under Subchapter B,

1 Chapter 39, and on compliance with other applicable accountability  
2 provisions under Chapter 39;

3 (3) specify any basis, in addition to a basis  
4 specified by this subchapter, on which the charter may be placed on  
5 probation or revoked;

6 (4) prohibit discrimination in admission on the basis  
7 of national origin, ethnicity, race, religion, or disability;

8 (5) describe the governing structure of the blue  
9 ribbon charter campus;

10 (6) specify any procedure or requirement, in addition  
11 to those under Chapter 38, that the campus will follow to ensure the  
12 health and safety of students and employees; and

13 (7) describe the manner in which the campus and  
14 charter holder granting the blue ribbon charter will comply with  
15 financial and operational requirements, including requirements  
16 related to the Public Education Information Management System  
17 (PEIMS) under Section 11A.158 and the audit requirements under  
18 Section 11A.210.

19 (b) A charter holder may reserve the right to approve  
20 contracts, governance alterations, personnel decisions, and other  
21 matters affecting the operation of the blue ribbon charter campus.

22 (c) A blue ribbon charter must specify the basis and  
23 procedure to be used by the charter holder for placing the blue  
24 ribbon charter campus on probation or revoking the charter, which  
25 must include an opportunity for an informal review of the blue  
26 ribbon charter campus and governing body of the campus by the  
27 charter holder. A charter holder's decision to place on probation

1 or revoke a blue ribbon charter is final and may not be appealed.

2 Sec. 11A.407. FORM. A blue ribbon charter issued under this  
3 subchapter must be in the form and substance of a written contract  
4 signed by the president or equivalent officer of the governing body  
5 of the charter holder granting the blue ribbon charter and the  
6 president or equivalent officer of the governing body of the  
7 eligible entity to which the blue ribbon charter is granted.

8 Sec. 11A.408. REVISION. A blue ribbon charter granted  
9 under this subchapter may be revised with the approval of the  
10 charter holder that granted the charter.

11 [Sections 11A.409-11A.450 reserved for expansion]

12 SUBCHAPTER J. RECEIVERSHIP FOR CERTAIN OPEN-ENROLLMENT CHARTER  
13 SCHOOLS

14 Sec. 11A.451. DEFINITIONS. In this subchapter:

15 (1) "Assets" means:

16 (A) public funds, as determined under Section  
17 12.107, as that section existed on January 1, 2005; and

18 (B) public property, as determined under Section  
19 12.128, as that section existed on January 1, 2005.

20 (2) "Records" means government records, as determined  
21 under Section 12.1052, as that section existed on January 1, 2005.

22 Sec. 11A.452. APPLICABILITY. The commissioner shall  
23 appoint a receiver under this subchapter for each open-enrollment  
24 charter school that on June 1, 2005, was operating under a charter  
25 issued under Subchapter D, Chapter 12, as that subchapter existed  
26 on January 1, 2005, and:

27 (1) is not authorized to operate as a public charter

1 district under this chapter; or

2 (2) elects not to operate as a public charter district  
3 under this chapter.

4 Sec. 11A.453. APPOINTMENT OF RECEIVER; BOND REQUIRED. (a)  
5 The commissioner shall appoint a receiver to protect the assets and  
6 direct the dissolution of open-enrollment charter schools subject  
7 to this subchapter.

8 (b) The receiver shall execute a bond in an amount set by the  
9 commissioner to ensure the proper performance of the receiver's  
10 duties.

11 (c) Until discharged by the commissioner, the receiver  
12 shall perform the duties that the commissioner directs to preserve  
13 the assets and direct the dissolution of the open-enrollment  
14 charter school under this subchapter.

15 Sec. 11A.454. POWERS AND DUTIES OF RECEIVER. (a) After  
16 appointment and execution of bond under Section 11A.453, the  
17 receiver shall take possession of:

18 (1) assets and records in the possession of the  
19 open-enrollment charter school specified by the commissioner; and

20 (2) any Foundation School Program funds and any other  
21 public funds received by the school's charter holder.

22 (b) On request of the receiver, the attorney general shall  
23 file a suit for attachment, garnishment, or involuntary bankruptcy  
24 and take any other action necessary for the dissolution of an  
25 open-enrollment charter school under this subchapter.

26 (c) If the charter holder of an open-enrollment charter  
27 school or an officer or employee of such a school refuses to

1 transfer school assets or records to a receiver under this  
2 subsection, the receiver may ask the attorney general to petition a  
3 court for recovery of the assets or records. If the court grants  
4 the petition, the court shall award attorney's fees and court costs  
5 to the state.

6 (d) A record described by this section is a public school  
7 record for purposes of Section 37.10(c)(2), Penal Code.

8 Sec. 11A.455. DISPOSITION OF ASSETS. (a) A receiver shall  
9 wind up the affairs of an open-enrollment charter school and,  
10 except as provided by Subsection (b), reduce its assets to cash for  
11 the purpose of discharging all existing liabilities and obligations  
12 of the school. In winding up the affairs of a school, the receiver  
13 shall cooperate in any bankruptcy proceeding affecting the school.  
14 The receiver shall distribute any remaining balance to the  
15 commissioner.

16 (b) A receiver shall offer free of charge any equipment and  
17 supplies of an open-enrollment charter school dissolved under this  
18 subchapter to school districts, giving priority to districts based  
19 on the percentage of the charter school's students that reside in  
20 the districts.

21 (c) The commissioner shall use money in the foundation  
22 school fund and money received under this section to pay the costs  
23 described by Section 11A.458 and discharge liabilities and  
24 obligations of open-enrollment charter schools under this  
25 subchapter. The commissioner shall deposit any remaining balance  
26 in the foundation school fund.

27 Sec. 11A.456. DISPOSITION OF RECORDS. (a) The records of

1 an open-enrollment charter school subject to this subchapter shall  
2 be transferred in the manner specified by the commissioner to a  
3 custodian designated by the commissioner. The commissioner may  
4 designate any appropriate entity to serve as custodian of records,  
5 including the agency, a regional education service center, or a  
6 school district. In designating a custodian, the commissioner  
7 shall ensure that the transferred records, including student and  
8 personnel records, are transferred to a custodian capable of:

9 (1) maintaining the records;

10 (2) making the records readily accessible to students,  
11 parents, former school employees, and other persons entitled to  
12 access; and

13 (3) complying with applicable state or federal law  
14 restricting access to the records.

15 (b) The commissioner is entitled to access to any records  
16 transferred to a custodian under this section as the commissioner  
17 determines necessary for auditing, investigative, or monitoring  
18 purposes.

19 Sec. 11A.457. LIABILITY. A receiver is not personally  
20 liable for actions taken by the receiver under this subchapter.

21 Sec. 11A.458. COSTS OF RECEIVERSHIP. The commissioner may  
22 authorize reimbursement of reasonable costs related to the  
23 receivership, including:

24 (1) payment of fees to the receiver for the receiver's  
25 services; and

26 (2) payment of fees to attorneys, accountants, or any  
27 other person that provides goods or services necessary to the

1 operation of the receivership.

2 Sec. 11A.459. EXEMPTION FROM COMPETITIVE BIDDING. The  
3 competitive bidding requirements of this code and the contracting  
4 requirements of Chapter 2155, Government Code, do not apply to the  
5 appointment of a receiver, attorney, accountant, or other person  
6 appointed under this subchapter.

7 SECTION 4.03. Subchapter D, Chapter 12, Education Code, is  
8 amended by adding Sections 12.1058 and 12.135 to read as follows:

9 Sec. 12.1058. APPLICABILITY OF PUBLIC CHARTER DISTRICT  
10 PROVISIONS. (a) An open-enrollment charter school is subject to  
11 Sections 11A.201, 11A.204, 11A.205, 11A.206, 11A.210, 11A.303,  
12 11A.304, 11A.352, 21.0032, and 21.058.

13 (b) The commissioner may bring an action for injunctive or  
14 other relief as provided by Section 11A.203(d) to enforce Section  
15 12.107.

16 (c) For purposes of this section, a reference in a law  
17 described by this section to a public charter district means an  
18 open-enrollment charter school.

19 Sec. 12.135. WAGE INCREASE FOR CERTAIN PROFESSIONAL STAFF.  
20 (a) This section applies to a charter holder that on January 1,  
21 2005, operated an open-enrollment charter school.

22 (b) Using state funds received by the charter holder for  
23 that purpose under Subsection (d), each school year a charter  
24 holder that participated in the program under Chapter 1579,  
25 Insurance Code, for the 2004-2005 school year shall provide  
26 employees of the charter holder, other than administrators,  
27 compensation in the form of annual salaries, incentives, or other

1 compensation determined appropriate by the charter holder that  
2 results in an average compensation increase for the employees of  
3 \$2,000.

4 (c) Using state funds received by the charter holder for  
5 that purpose under Subsection (e), each school year a charter  
6 holder that did not participate in the program under Chapter 1579,  
7 Insurance Code, for the 2004-2005 school year shall provide  
8 employees of the charter holder, other than administrators,  
9 compensation in the form of annual salaries, incentives, or other  
10 compensation determined appropriate by the charter holder that  
11 results in an average compensation increase for the employees of  
12 \$1,000.

13 (d) In addition to any amounts to which a charter holder is  
14 entitled under this chapter, a charter holder that participated in  
15 the program under Chapter 1579, Insurance Code, for the 2004-2005  
16 school year is entitled to state aid in an amount, as determined by  
17 the commissioner, equal to the product of \$2,000 multiplied by the  
18 number of classroom teachers, full-time librarians, full-time  
19 counselors certified under Subchapter B, Chapter 21, and full-time  
20 school nurses appropriately licensed under Chapter 301,  
21 Occupations Code, who are employed by the charter holder at an  
22 open-enrollment charter school.

23 (e) In addition to any amounts to which a charter holder is  
24 entitled under this chapter, a charter holder that did not  
25 participate in the program under Chapter 1579, Insurance Code, for  
26 the 2004-2005 school year is entitled to state aid in an amount, as  
27 determined by the commissioner, equal to the product of \$1,000

1 multiplied by the number of classroom teachers, full-time  
 2 librarians, full-time counselors certified under Subchapter B,  
 3 Chapter 21, and full-time school nurses appropriately licensed  
 4 under Chapter 301, Occupations Code, who are employed by the  
 5 charter holder at an open-enrollment charter school.

6 (f) A payment under this section is in addition to wages the  
 7 charter holder would otherwise pay the employee during the school  
 8 year.

9 SECTION 4.04. Sections 12.152 and 12.156, Education Code,  
 10 are amended to read as follows:

11 Sec. 12.152. AUTHORIZATION. [~~(a)~~] In accordance with this  
 12 subchapter and Chapter 11A [~~Subchapter D~~], the State Board of  
 13 Education may grant a charter on the application of a public senior  
 14 college or university for a public [~~an open-enrollment~~] charter  
 15 district [~~school~~] to operate on the campus of the public senior  
 16 college or university or in the same county in which the campus of  
 17 the public senior college or university is located.

18 Sec. 12.156. APPLICABILITY OF CERTAIN PROVISIONS. (a)  
 19 Except as otherwise provided by this subchapter, Chapter 11A  
 20 [~~Subchapter D~~] applies to a college or university charter school as  
 21 though the college or university charter school were granted a  
 22 charter under that chapter [~~subchapter~~].

23 (b) A charter granted under this subchapter is not  
 24 considered for purposes of the limit on the number of public  
 25 [~~open-enrollment~~] charter districts [~~schools~~] imposed by Section  
 26 11A.002 [~~12.101(b)~~].

27 (c) A college or university charter school is not subject to

1 a prohibition, restriction, or requirement relating to:

2 (1) open meetings and public information under Section  
3 11A.053;

4 (2) maintenance of records under Section 11A.054;

5 (3) purchasing and contracting under Section 11A.055;

6 (4) conflict of interest under Section 11A.056;

7 (5) nepotism under Section 11A.057;

8 (6) composition of a governing body under Section  
9 11A.152;

10 (7) restrictions on serving as a member of a governing  
11 body or as an officer or employee under Section 11A.153;

12 (8) liability of members of a governing body under  
13 Section 11A.154;

14 (9) training for members of a governing body under  
15 Section 11A.155;

16 (10) bylaws and annual reports under Section 11A.156;

17 (11) quarterly financial reports under Section  
18 11A.157; and

19 (12) depository bond and security requirements under  
20 Section 11A.204.

21 (d) A college or university charter school and the governing  
22 body of the school are subject to regulations and procedures that  
23 govern a public senior college or university relating to open  
24 meetings, records retention, purchasing, contracting, conflicts of  
25 interest, and nepotism.

26 SECTION 4.05. Section 5.001, Education Code, is amended by  
27 adding Subdivision (5-a) and amending Subdivision (6) to read as

1 follows:

2 (5-a) "Public charter campus" means a campus operated  
3 by a public charter district.

4 (6) "Public charter district [~~Open-enrollment charter~~  
5 ~~school~~]" means a public school authorized by [~~that has been~~  
6 ~~granted~~] a charter under Chapter 11A [~~Subchapter D, Chapter 12~~].

7 SECTION 4.06. Section 7.003, Education Code, is amended to  
8 read as follows:

9 Sec. 7.003. LIMITATION ON AUTHORITY. An educational  
10 function not specifically delegated to the agency or the board  
11 under this code is reserved to and shall be performed by school  
12 districts or [~~open-enrollment~~] charter schools.

13 SECTION 4.065. Section 7.027(b), Education Code, as added  
14 by Chapter 201, Acts of the 78th Legislature, Regular Session,  
15 2003, is amended to read as follows:

16 (b) The board of trustees of a school district or the  
17 governing body of a public charter district [~~an open-enrollment~~  
18 ~~charter school~~] has primary responsibility for ensuring that the  
19 district [~~or school~~] complies with all applicable requirements of  
20 state educational programs.

21 SECTION 4.07. Section 7.055(b)(17), Education Code, is  
22 amended to read as follows:

23 (17) The commissioner shall distribute funds to public  
24 charter districts [~~open-enrollment charter schools~~] as required  
25 under Chapter 11A [~~Subchapter D, Chapter 12~~].

26 SECTION 4.08. Section 7.102(c)(9), Education Code, is  
27 amended to read as follows:

1           (9) The board may grant a charter for a public charter  
2 district [~~an open-enrollment charter or approve a charter revision~~]  
3 as provided by Chapter 11A [~~Subchapter D, Chapter 12~~].

4           SECTION 4.09. Section 12.002, Education Code, is amended to  
5 read as follows:

6           Sec. 12.002. CLASSES OF CHARTER. The classes of charter  
7 under this chapter are:

8           (1) a home-rule school district charter as provided by  
9 Subchapter B;

10           (2) a campus or campus program charter as provided by  
11 Subchapter C; or

12           (3) a college or university [~~an open-enrollment~~]  
13 charter as provided by Subchapter E [~~D~~].

14           SECTION 4.10. Effective August 1, 2006, Subchapter A,  
15 Chapter 21, Education Code, is amended by adding Section 21.0032 to  
16 read as follows:

17           Sec. 21.0032. CLEARANCE REQUIRED FOR CERTAIN PUBLIC CHARTER  
18 DISTRICT PERSONNEL; APPEAL. (a) A person may not be employed by or  
19 serve as a teacher, teacher intern or teacher trainee, librarian,  
20 educational aide, administrator, educational diagnostician, or  
21 counselor for a public charter district unless the person has been  
22 cleared by the agency following a national criminal history record  
23 review and investigation under this section.

24           (b) Before or immediately after employing or securing the  
25 services of a person described by Subsection (a), a public charter  
26 district shall send to the agency the person's fingerprints and  
27 social security number. The person may be employed or serve pending

1 action by the agency.

2 (c) The agency shall review and investigate the person's  
3 national criminal history record information, educator  
4 certification discipline history in any state, and other  
5 information in the same manner as a review or investigation  
6 conducted regarding an initial application for educator  
7 certification. If the agency finds the person would not be eligible  
8 for educator certification, the agency shall notify the public  
9 charter district in writing that the person may not be employed or  
10 serve in a capacity described by Subsection (a).

11 (d) On receipt of written notice under Subsection (c), a  
12 public charter district may not employ or permit the person to serve  
13 unless the person timely submits a written appeal under this  
14 section. The agency shall conduct an appeal under this subsection  
15 in the same manner as an appeal regarding the denial of an initial  
16 application for educator certification.

17 SECTION 4.11. Sections 21.058(b) and (c), Education Code,  
18 are amended to read as follows:

19 (b) Notwithstanding Section 21.041(b)(7), not later than  
20 the fifth day after the date the board receives notice under Article  
21 42.018, Code of Criminal Procedure, of the conviction of a person  
22 described by Section 21.0032 or who holds a certificate under this  
23 subchapter, the board shall:

24 (1) revoke the certificate or clearance held by the  
25 person; and

26 (2) provide to the person and to any school district or  
27 public charter district [~~open-enrollment charter school~~] employing

1 the person at the time of revocation written notice of:

2 (A) the revocation; and

3 (B) the basis for the revocation.

4 (c) A school district or public charter district  
5 [~~open-enrollment charter school~~] that receives notice under  
6 Subsection (b) of the revocation of a certificate issued under this  
7 subchapter shall:

8 (1) immediately remove the person whose certificate  
9 has been revoked from campus or from an administrative office, as  
10 applicable, to prevent the person from having any contact with a  
11 student; and

12 (2) as soon as practicable, terminate the employment  
13 of the person in accordance with the person's contract and with this  
14 subchapter.

15 SECTION 4.12. Sections 22.083(b) and (c), Education Code,  
16 are amended to read as follows:

17 (b) A public charter district may [~~An open-enrollment~~  
18 ~~charter school shall~~] obtain from the Department of Public Safety  
19 [~~any law enforcement or criminal justice agency~~] all criminal  
20 history record information that relates to:

21 (1) a person whom the district [~~school~~] intends to  
22 employ in any capacity; or

23 (2) a person who has indicated, in writing, an  
24 intention to serve as a volunteer with the district [~~school~~].

25 (c) A school district, public charter district  
26 [~~open-enrollment charter school~~], private school, regional  
27 education service center, or shared services arrangement may obtain

1 from a federal or state [~~any~~] law enforcement or criminal justice  
2 agency all criminal history record information that relates to:

3 (1) a volunteer or employee of the district, school,  
4 service center, or shared services arrangement; or

5 (2) an employee of or applicant for employment by a  
6 person that contracts with the district, school, service center, or  
7 shared services arrangement to provide services, if:

8 (A) the employee or applicant has or will have  
9 continuing duties related to the contracted services; and

10 (B) the duties are or will be performed on school  
11 property or at another location where students are regularly  
12 present.

13 SECTION 4.13. Effective August 1, 2006, Section 22.084,  
14 Education Code, is amended to read as follows:

15 Sec. 22.084. ACCESS TO CRIMINAL HISTORY RECORDS OF SCHOOL  
16 BUS DRIVERS, BUS MONITORS, AND BUS AIDES. (a) Except as provided  
17 by Subsections (c) and (d), a school district, public charter  
18 district [~~open-enrollment charter school~~], private school,  
19 regional education service center, or shared services arrangement  
20 that contracts with a person for transportation services shall  
21 obtain from the Department of Public Safety [~~any law enforcement or~~  
22 ~~criminal justice agency~~] all criminal history record information  
23 that relates to:

24 (1) a person employed by the person as a bus driver; or

25 (2) a person the person intends to employ as a bus  
26 driver.

27 (b) Except as provided by Subsections (c) and (d), a person

1 that contracts with a school district, public charter district  
2 [~~open-enrollment charter school~~], private school, regional  
3 education service center, or shared services arrangement to provide  
4 transportation services shall submit to the district, school,  
5 service center, or shared services arrangement the name and other  
6 identification data required to obtain criminal history record  
7 information of each person described by Subsection (a). If the  
8 district, school, service center, or shared services arrangement  
9 obtains information that a person described by Subsection (a) has  
10 been convicted of a felony or a misdemeanor involving moral  
11 turpitude, the district, school, service center, or shared services  
12 arrangement shall inform the chief personnel officer of the person  
13 with whom the district, school, service center, or shared services  
14 arrangement has contracted, and the person may not employ that  
15 person to drive a bus on which students are transported without the  
16 permission of the board of trustees of the district or service  
17 center, the governing body of the public charter district  
18 [~~open-enrollment charter school~~], or the chief executive officer of  
19 the private school or shared services arrangement.

20 (c) A commercial transportation company that contracts with  
21 a school district, public charter district [~~open-enrollment~~  
22 ~~charter school~~], private school, regional education service  
23 center, or shared services arrangement to provide transportation  
24 services may obtain from a federal or state [~~any~~] law enforcement or  
25 criminal justice agency all criminal history record information  
26 that relates to:

27 (1) a person employed by the commercial transportation

1 company as a bus driver, bus monitor, or bus aide; or

2 (2) a person the commercial transportation company  
3 intends to employ as a bus driver, bus monitor, or bus aide.

4 (d) If the commercial transportation company obtains  
5 information that a person employed or to be employed by the company  
6 has been convicted of a felony or a misdemeanor involving moral  
7 turpitude, the company may not employ that person to drive or to  
8 serve as a bus monitor or bus aide on a bus on which students are  
9 transported without the permission of the board of trustees of the  
10 district or service center, the governing body of the public  
11 charter district [~~open-enrollment charter school~~], or the chief  
12 executive officer of the private school or shared services  
13 arrangement. Subsections (a) and (b) do not apply if information is  
14 obtained as provided by Subsection (c).

15 SECTION 4.14. Section 25.087, Education Code, is amended by  
16 amending Subsection (b) and adding Subsection (c) to read as  
17 follows:

18 (b) A school district shall excuse a student from attending  
19 school for:

20 (1) the following purposes, including travel for those  
21 purposes:

22 (A) [~~purpose of~~] observing religious holy days;

23 (B) appearing at a governmental office to  
24 complete paperwork required in connection with the student's  
25 application for United States citizenship or to take part in a  
26 naturalization oath ceremony;

27 (C) attending an appointment with the student's

1 probation officer;

2 (D) attending an adoption proceeding involving  
3 the student; or

4 (E) attending a required court appearance; or

5 (2) a [~~, including traveling for that purpose. A~~  
6 ~~school district shall excuse a student for~~] temporary absence  
7 resulting from health care professionals if that student commences  
8 classes or returns to school on the same day of the appointment.

9 (c) A student whose absence is excused under Subsection (b)  
10 [~~this subsection~~] may not be penalized for that absence and shall be  
11 counted as if the student attended school for purposes of  
12 calculating the average daily attendance of students in the school  
13 district. A student whose absence is excused under Subsection (b)  
14 [~~this subsection~~] shall be allowed a reasonable time to make up  
15 school work missed on those days. If the student satisfactorily  
16 completes the school work, the day of absence shall be counted as a  
17 day of compulsory attendance.

18 SECTION 4.15. Section 25.088, Education Code, is amended to  
19 read as follows:

20 Sec. 25.088. SCHOOL ATTENDANCE OFFICER. The school  
21 attendance officer may be selected by:

- 22 (1) the county school trustees of any county;
- 23 (2) the board of trustees of any school district or the  
24 boards of trustees of two or more school districts jointly; or
- 25 (3) the governing body of a public charter district  
26 [~~an open-enrollment charter school~~].

27 SECTION 4.16. Section 25.089(a), Education Code, is amended

1 to read as follows:

2 (a) An attendance officer may be compensated from the funds  
3 of the county, independent school district, or public charter  
4 district [~~open-enrollment charter school~~], as applicable.

5 SECTION 4.17. Section 25.090(b), Education Code, is amended  
6 to read as follows:

7 (b) If the governing body of a public charter district [~~an~~  
8 ~~open-enrollment charter school~~] has not selected an attendance  
9 officer for a district campus, the duties of attendance officer  
10 shall be performed by the peace officers of the county in which the  
11 campus [~~school~~] is located.

12 SECTION 4.18. Sections 25.093(d) and (e), Education Code,  
13 are amended to read as follows:

14 (d) A fine collected under this section shall be deposited  
15 as follows:

16 (1) one-half shall be deposited to the credit of the  
17 operating fund of, as applicable:

18 (A) the school district in which the child  
19 attends school;

20 (B) the public charter district [~~open-enrollment~~  
21 ~~charter school~~] the child attends; or

22 (C) the juvenile justice alternative education  
23 program that the child has been ordered to attend; and

24 (2) one-half shall be deposited to the credit of:

25 (A) the general fund of the county, if the  
26 complaint is filed in the justice court or the constitutional  
27 county court; or

1 (B) the general fund of the municipality, if the  
2 complaint is filed in municipal court.

3 (e) At the trial of any person charged with violating this  
4 section, the attendance records of the child may be presented in  
5 court by any authorized employee of the school district or public  
6 charter district [~~open-enrollment charter school~~], as applicable.

7 SECTION 4.19. Sections 25.095(a) and (b), Education Code,  
8 are amended to read as follows:

9 (a) A school district or public charter district  
10 [~~open-enrollment charter school~~] shall notify a student's parent in  
11 writing at the beginning of the school year that if the student is  
12 absent from school on 10 or more days or parts of days within a  
13 six-month period in the same school year or on three or more days or  
14 parts of days within a four-week period:

15 (1) the student's parent is subject to prosecution  
16 under Section 25.093; and

17 (2) the student is subject to prosecution under  
18 Section 25.094 or to referral to a juvenile court in a county with a  
19 population of less than 100,000 for conduct that violates that  
20 section.

21 (b) A school district or public charter district shall  
22 notify a student's parent if the student has been absent from  
23 school, without excuse under Section 25.087, on three days or parts  
24 of days within a four-week period. The notice must:

25 (1) inform the parent that:

26 (A) it is the parent's duty to monitor the  
27 student's school attendance and require the student to attend

1 school; and

2 (B) the parent is subject to prosecution under  
3 Section 25.093; and

4 (2) request a conference between school officials and  
5 the parent to discuss the absences.

6 SECTION 4.20. Section 25.0951(a), Education Code, as  
7 amended by H.B. No. 1575, Acts of the 79th Legislature, Regular  
8 Session, 2005, is amended to read as follows:

9 (a) If a student fails to attend school without excuse on 10  
10 or more days or parts of days within a six-month period in the same  
11 school year, a school district or public charter district shall  
12 within seven school days of the student's last absence:

13 (1) file a complaint against the student or the  
14 student's parent or both in a county, justice, or municipal court  
15 for an offense under Section 25.093 or 25.094, as appropriate, or  
16 refer the student to a juvenile court in a county with a population  
17 of less than 100,000 for conduct that violates Section 25.094; or

18 (2) refer the student to a juvenile court for conduct  
19 indicating a need for supervision under Section 51.03(b)(2), Family  
20 Code.

21 SECTION 4.21. Section 25.0951(b), Education Code, is  
22 amended to read as follows:

23 (b) If a student fails to attend school without excuse on  
24 three or more days or parts of days within a four-week period but  
25 does not fail to attend school for the time described by Subsection  
26 (a), the school district or public charter district may:

27 (1) file a complaint against the student or the

1 student's parent or both in a county, justice, or municipal court  
2 for an offense under Section 25.093 or 25.094, as appropriate, or  
3 refer the student to a juvenile court in a county with a population  
4 of less than 100,000 for conduct that violates Section 25.094; or

5 (2) refer the student to a juvenile court for conduct  
6 indicating a need for supervision under Section 51.03(b)(2), Family  
7 Code.

8 SECTION 4.22. Sections 26.0085(a), (c), (d), and (e),  
9 Education Code, are amended to read as follows:

10 (a) A school district or public charter district  
11 [~~open-enrollment charter school~~] that seeks to withhold  
12 information from a parent who has requested public information  
13 relating to the parent's child under Chapter 552, Government Code,  
14 and that files suit as described by Section 552.324, Government  
15 Code, to challenge a decision by the attorney general issued under  
16 Subchapter G, Chapter 552, Government Code, must bring the suit not  
17 later than the 30th calendar day after the date the school district  
18 or public charter district [~~open-enrollment charter school~~]  
19 receives the decision of the attorney general being challenged.

20 (c) Notwithstanding any other law, a school district or  
21 public charter district [~~open-enrollment charter school~~] may not  
22 appeal the decision of a court in a suit filed under Subsection (a).  
23 This subsection does not affect the right of a parent to appeal the  
24 decision.

25 (d) If the school district or public charter district  
26 [~~open-enrollment charter school~~] does not bring suit within the  
27 period established by Subsection (a), the school district or public

1 charter district [~~open-enrollment charter school~~] shall comply  
2 with the decision of the attorney general.

3 (e) A school district or public charter district  
4 [~~open-enrollment charter school~~] that receives a request from a  
5 parent for public information relating to the parent's child shall  
6 comply with Chapter 552, Government Code. If an earlier deadline  
7 for bringing suit is established under Chapter 552, Government  
8 Code, Subsection (a) does not apply. This section does not affect  
9 the earlier deadline for purposes of Section 552.353(b)(3),  
10 Government Code, [~~532.353(b)(3)~~] for a suit brought by an officer  
11 for public information.

12 SECTION 4.23. Section 28.0211(j), Education Code, is  
13 amended to read as follows:

14 (j) A school district [~~or open-enrollment charter school~~]  
15 shall provide students required to attend accelerated programs  
16 under this section with transportation to those programs if the  
17 programs occur outside of regular school hours.

18 SECTION 4.24. Section 29.010(f), Education Code, is amended  
19 to read as follows:

20 (f) This section does not create an obligation for or impose  
21 a requirement on a school district [~~or open-enrollment charter~~  
22 ~~school~~] that is not also created or imposed under another state law  
23 or a federal law.

24 SECTION 4.25. Sections 29.012(a) and (c), Education Code,  
25 are amended to read as follows:

26 (a) Except as provided by Subsection (b)(2), not later than  
27 the third day after the date a person 22 years of age or younger is

1 placed in a residential facility, the residential facility shall:

2 (1) if the person is three years of age or older,  
3 notify the school district in which the facility is located, unless  
4 the facility is a public charter district [~~an open-enrollment~~  
5 ~~charter school~~]; or

6 (2) if the person is younger than three years of age,  
7 notify a local early intervention program in the area in which the  
8 facility is located.

9 (c) For purposes of enrollment in a school, a person who  
10 resides in a residential facility is considered a resident of the  
11 school district or geographical area served by the public charter  
12 district campus [~~open-enrollment charter school~~] in which the  
13 facility is located.

14 SECTION 4.26. Sections 29.062(c)-(e), Education Code, are  
15 amended to read as follows:

16 (c) Not later than the 30th day after the date of an on-site  
17 monitoring inspection, the agency shall report its findings to the  
18 school district [~~or open-enrollment charter school~~] and to the  
19 division of accreditation.

20 (d) The agency shall notify a school district [~~or~~  
21 ~~open-enrollment charter school~~] found in noncompliance in writing,  
22 not later than the 30th day after the date of the on-site  
23 monitoring. The district [~~or open-enrollment charter school~~] shall  
24 take immediate corrective action.

25 (e) If a school district [~~or open-enrollment charter~~  
26 ~~school~~] fails to satisfy appropriate standards adopted by the  
27 commissioner for purposes of Subsection (a), the agency shall apply

1 sanctions, which may include the removal of accreditation, loss of  
2 foundation school funds, or both.

3 SECTION 4.27. Sections 29.087(a)-(c), (e), (k), and (l),  
4 Education Code, are amended to read as follows:

5 (a) The agency shall develop a process by which a school  
6 district or public charter district [~~open-enrollment charter~~  
7 ~~school~~] may apply to the commissioner for authority to operate a  
8 program to prepare eligible students to take a high school  
9 equivalency examination.

10 (b) Any school district or public charter district  
11 [~~open-enrollment charter school~~] may apply for authorization to  
12 operate a program under this section. As part of the application  
13 process, the commissioner shall require a school district or public  
14 charter district [~~or school~~] to provide information regarding the  
15 operation of any similar program during the preceding five years.

16 (b-1) A school district or public charter district  
17 [~~open-enrollment charter school~~] authorized by the commissioner on  
18 or before August 31, 2003, to operate a program under this section  
19 may continue to operate that program in accordance with this  
20 section.

21 (c) A school district or public charter district  
22 [~~open-enrollment charter school~~] may not increase enrollment of  
23 students in a program authorized by this section by more than five  
24 percent of the number of students enrolled in the similar program  
25 operated by the school district or public charter district [~~or~~  
26 ~~school~~] during the 2000-2001 school year.

27 (e) A school district or public charter district

1 ~~[open-enrollment charter school]~~ shall inform each student who has  
2 completed a program authorized by this section of the time and place  
3 at which the student may take the high school equivalency  
4 examination. Notwithstanding any provision of this section, a  
5 student may not take the high school equivalency examination except  
6 as authorized by Section 7.111.

7 (k) The board of trustees of a school district or the  
8 governing body ~~[board]~~ of a public charter district ~~[an~~  
9 ~~open-enrollment charter school]~~ shall:

10 (1) hold a public hearing concerning the proposed  
11 application of the school district or public charter district ~~[or~~  
12 ~~school]~~ before applying to operate a program authorized by this  
13 section; and

14 (2) subsequently hold a public hearing annually to  
15 review the performance of the program.

16 (l) The commissioner may revoke a school district's or  
17 public charter district's ~~[open-enrollment charter school's]~~  
18 authorization under this section after consideration of relevant  
19 factors, including performance of students participating in the  
20 school district's or public charter district's ~~[or school's]~~  
21 program on assessment instruments required under Chapter 39, the  
22 percentage of students participating in the school district's or  
23 public charter district's ~~[or school's]~~ program who complete the  
24 program and perform successfully on the high school equivalency  
25 examination, and other criteria adopted by the commissioner. A  
26 decision by the commissioner under this subsection is final and may  
27 not be appealed.

1 SECTION 4.28. Sections 29.155(a)-(d), (i), and (j),  
2 Education Code, are amended to read as follows:

3 (a) From amounts appropriated for the purposes of this  
4 section, the commissioner may make grants to school districts and  
5 public charter districts [~~open-enrollment charter schools~~] to  
6 implement or expand kindergarten and prekindergarten programs by:

7 (1) operating an existing half-day kindergarten or  
8 prekindergarten program on a full-day basis; or

9 (2) implementing a prekindergarten program at a campus  
10 that does not have a prekindergarten program.

11 (b) A school district or public charter district  
12 [~~open-enrollment charter school~~] may use funds received under this  
13 section to employ teachers and other personnel for a kindergarten  
14 or prekindergarten program and acquire curriculum materials or  
15 equipment, including computers, for use in kindergarten and  
16 prekindergarten programs.

17 (c) To be eligible for a grant under this section, a school  
18 district or public charter district [~~open-enrollment charter  
19 school~~] must apply to the commissioner in the manner and within the  
20 time prescribed by the commissioner.

21 (d) In awarding grants under this section, the commissioner  
22 shall give priority to districts and public charter districts  
23 [~~open-enrollment charter schools~~] in which the level of performance  
24 of students on the assessment instruments administered under  
25 Section 39.023 to students in grade three is substantially below  
26 the average level of performance on those assessment instruments  
27 for all school districts in the state.

1 (i) In carrying out the purposes of Subsection (g), a school  
2 district or public charter district [~~open-enrollment charter~~  
3 ~~school~~] may use funds granted to the school district or public  
4 charter district [~~or school~~] under this section [~~subsection~~] in  
5 contracting with another entity, including a private entity.

6 (j) If a school district or public charter district  
7 [~~open-enrollment charter school~~] returns to the commissioner funds  
8 granted under this section, the commissioner may grant those funds  
9 to another entity, including a private entity, for the purposes of  
10 Subsection (g).

11 SECTION 4.29. Section 29.905(b), Education Code, is amended  
12 to read as follows:

13 (b) The agency shall make the program available to a school  
14 on the request of the board of trustees of [~~or~~] the school district  
15 of which the school is a part, or if the school is a public charter  
16 district [~~an open-enrollment charter school~~], on the request of the  
17 governing body of the public charter district [~~school~~].

18 SECTION 4.30. Subchapter C, Chapter 32, Education Code, is  
19 amended by adding Section 32.1011 to read as follows:

20 Sec. 32.1011. APPLICABILITY TO PUBLIC CHARTER DISTRICTS.  
21 This subchapter applies to a public charter district as if the  
22 public charter district were a school district.

23 SECTION 4.31. Section 32.102, Education Code, is amended to  
24 read as follows:

25 Sec. 32.102. AUTHORITY. (a) As provided by this  
26 subchapter, a school district [~~or open-enrollment charter school~~]  
27 may transfer to a student enrolled in the district [~~or school~~]:

1 (1) any data processing equipment donated to the  
2 district [~~or school~~], including equipment donated by:

3 (A) a private donor; or

4 (B) a state eleemosynary institution or a state  
5 agency under Section 2175.128, Government Code;

6 (2) any equipment purchased by the district [~~or~~  
7 ~~school~~], to the extent consistent with Section 32.105; and

8 (3) any surplus or salvage equipment owned by the  
9 district [~~or school~~].

10 (b) A school district [~~or open-enrollment charter school~~]  
11 may accept:

12 (1) donations of data processing equipment for  
13 transfer under this subchapter; and

14 (2) any gifts, grants, or donations of money or  
15 services to purchase, refurbish, or repair data processing  
16 equipment under this subchapter.

17 SECTION 4.32. Section 32.103, Education Code, is amended to  
18 read as follows:

19 Sec. 32.103. ELIGIBILITY; PREFERENCE. (a) A student is  
20 eligible to receive data processing equipment under this subchapter  
21 only if the student does not otherwise have home access to data  
22 processing equipment, as determined by the student's school  
23 district [~~or open-enrollment charter school~~].

24 (b) In transferring data processing equipment to students,  
25 a school district [~~or open-enrollment charter school~~] shall give  
26 preference to educationally disadvantaged students.

27 SECTION 4.33. Section 32.104, Education Code, is amended to

1 read as follows:

2           Sec. 32.104. REQUIREMENTS           FOR           TRANSFER. Before  
3 transferring data processing equipment to a student, a school  
4 district [~~or open-enrollment charter school~~] must:

5                 (1) adopt rules governing transfers under this  
6 subchapter, including provisions for technical assistance to the  
7 student by the district [~~or school~~];

8                 (2) determine that the transfer serves a public  
9 purpose and benefits the district [~~or school~~]; and

10                (3) remove from the equipment any offensive,  
11 confidential, or proprietary information, as determined by the  
12 district [~~or school~~].

13           SECTION 4.34. Section 32.105, Education Code, is amended to  
14 read as follows:

15           Sec. 32.105. EXPENDITURE OF PUBLIC FUNDS. A school  
16 district [~~or open-enrollment charter school~~] may spend public funds  
17 to:

18                 (1) purchase, refurbish, or repair any data processing  
19 equipment transferred to a student under this subchapter; and

20                 (2) store, transport, or transfer data processing  
21 equipment under this subchapter.

22           SECTION 4.35. Section 32.106, Education Code, is amended to  
23 read as follows:

24           Sec. 32.106. RETURN OF EQUIPMENT. (a) Except as provided  
25 by Subsection (b), a student who receives data processing equipment  
26 from a school district [~~or open-enrollment charter school~~] under  
27 this subchapter shall return the equipment to the district [~~or~~

1 ~~school~~] not later than the earliest of:

2 (1) five years after the date the student receives the  
3 equipment;

4 (2) the date the student graduates;

5 (3) the date the student transfers to another school  
6 district [~~or open-enrollment charter school~~]; or

7 (4) the date the student withdraws from school.

8 (b) Subsection (a) does not apply if, at the time the  
9 student is required to return the data processing equipment under  
10 that subsection, the district [~~or school~~] determines that the  
11 equipment has no marketable value.

12 SECTION 4.36. Section 33.007, Education Code, is amended to  
13 read as follows:

14 Sec. 33.007. COUNSELING REGARDING HIGHER EDUCATION. (a)  
15 Each counselor at an elementary, middle, or junior high school,  
16 including a public charter district [~~an open-enrollment charter~~  
17 ~~school~~] offering those grades, shall advise students and their  
18 parents or guardians regarding the importance of higher education,  
19 coursework designed to prepare students for higher education, and  
20 financial aid availability and requirements.

21 (b) During the first school year a student is enrolled in a  
22 high school or at the high school level in a public charter district  
23 [~~an open-enrollment charter school~~], and again during a student's  
24 senior year, a counselor shall provide information about higher  
25 education to the student and the student's parent or guardian. The  
26 information must include information regarding:

27 (1) the importance of higher education;

1 (2) the advantages of completing the recommended or  
2 advanced high school program adopted under Section 28.025(a);

3 (3) the disadvantages of taking courses to prepare for  
4 a high school equivalency examination relative to the benefits of  
5 taking courses leading to a high school diploma;

6 (4) financial aid eligibility;

7 (5) instruction on how to apply for federal financial  
8 aid;

9 (6) the center for financial aid information  
10 established under Section 61.0776;

11 (7) the automatic admission of certain students to  
12 general academic teaching institutions as provided by Section  
13 51.803; and

14 (8) the eligibility and academic performance  
15 requirements for the TEXAS Grant as provided by Subchapter M,  
16 Chapter 56 [~~, as added by Chapter 1590, Acts of the 76th Legislature,~~  
17 ~~Regular Session, 1999~~].

18 SECTION 4.37. Section 33.901, Education Code, is amended to  
19 read as follows:

20 Sec. 33.901. BREAKFAST PROGRAMS. If at least 10 percent of  
21 the students enrolled in one or more schools in a school district or  
22 enrolled in a public charter district campus [~~an open-enrollment~~  
23 ~~charter school~~] are eligible for free or reduced-price breakfasts  
24 under the national school breakfast program provided for by the  
25 Child Nutrition Act of 1966 (42 U.S.C. Section 1773), the governing  
26 body of the district or the public charter district  
27 [~~open-enrollment charter school~~] shall participate in the program

1 and make the benefits of the program available to all eligible  
2 students in the schools or campus [~~school~~].

3 SECTION 4.38. Section 37.007(e), Education Code, is amended  
4 to read as follows:

5 (e) In accordance with 20 U.S.C. Section 7151, a local  
6 educational agency, including a school district, home-rule school  
7 district, or public charter district [~~open-enrollment charter~~  
8 ~~school~~], shall expel a student who brings a firearm, as defined by  
9 18 U.S.C. Section 921, to school. The student must be expelled from  
10 the student's regular campus for a period of at least one year,  
11 except that:

12 (1) the superintendent or other chief administrative  
13 officer of the school district or of the other local educational  
14 agency, as defined by 20 U.S.C. Section 7801, may modify the length  
15 of the expulsion in the case of an individual student;

16 (2) the district or other local educational agency  
17 shall provide educational services to an expelled student in a  
18 disciplinary alternative education program as provided by Section  
19 37.008 if the student is younger than 10 years of age on the date of  
20 expulsion; and

21 (3) the district or other local educational agency may  
22 provide educational services to an expelled student who is 10 years  
23 of age or older in a disciplinary alternative education program as  
24 provided in Section 37.008.

25 SECTION 4.39. Section 37.008(j), Education Code, as amended  
26 by H.B. No. 603, Acts of the 79th Legislature, Regular Session,  
27 2005, is amended to read as follows:

1           (j) If a student placed in a disciplinary alternative  
2 education program enrolls in another school district before the  
3 expiration of the period of placement, the board of trustees of the  
4 district requiring the placement shall provide to the district in  
5 which the student enrolls, at the same time other records of the  
6 student are provided, a copy of the placement order. The district  
7 in which the student enrolls shall inform each educator who will  
8 have responsibility for, or will be under the direction and  
9 supervision of an educator who will have responsibility for, the  
10 instruction of the student of the contents of the placement order.  
11 Each educator shall keep the information received under this  
12 subsection confidential from any person not entitled to the  
13 information under this subsection, except that the educator may  
14 share the information with the student's parent or guardian as  
15 provided for by state or federal law. The district in which the  
16 student enrolls may continue the disciplinary alternative  
17 education program placement under the terms of the order or may  
18 allow the student to attend regular classes without completing the  
19 period of placement. A school district may take any action  
20 permitted by this subsection if:

21           (1) the student was placed in a disciplinary  
22 alternative education program by a public charter district [~~an~~  
23 ~~open-enrollment charter school~~] under Section 11A.256 [~~12.131~~] and  
24 the public charter district [~~school~~] provides to the school  
25 district a copy of the placement order; or

26           (2) the student was placed in a disciplinary  
27 alternative education program by a school district in another state

1 and:

2 (A) the out-of-state district provides to the  
3 school district a copy of the placement order; and

4 (B) the grounds for the placement by the  
5 out-of-state district are grounds for placement in the school  
6 district in which the student is enrolling.

7 SECTION 4.40. Section 37.022(a)(2), Education Code, as  
8 renumbered by Section 23.001(16), H.B. No. 2018, Acts of the 79th  
9 Legislature, Regular Session, 2005, is amended to read as follows:

10 (2) "District or school" includes an independent  
11 school district, a home-rule school district, a campus or campus  
12 program charter holder, or a public charter district [~~an~~  
13 ~~open-enrollment charter school~~].

14 SECTION 4.41. Section 44.008(a), Education Code, is amended  
15 to read as follows:

16 (a) The board of school trustees of each school district  
17 shall have its school district fiscal accounts audited annually at  
18 district expense by a certified or public accountant holding a  
19 permit from the Texas State Board of Public Accountancy. Except as  
20 determined impracticable by the commissioner, the accountant must  
21 have completed at least one peer-reviewed audit of a school  
22 district, governmental entity, quasi-governmental entity, or  
23 nonprofit corporation and received an unqualified opinion from the  
24 peer review. The audit must be completed following the close of  
25 each fiscal year.

26 SECTION 4.42. Section 46.012, Education Code, is amended to  
27 read as follows:

1           Sec. 46.012. APPLICABILITY TO PUBLIC CHARTER DISTRICTS  
2 ~~[OPEN-ENROLLMENT CHARTER SCHOOLS]~~. A public charter district [~~An~~  
3 ~~open-enrollment charter school~~] is not entitled to an allotment  
4 under this subchapter.

5           SECTION 4.43. Section 46.036, Education Code, is amended to  
6 read as follows:

7           Sec. 46.036. APPLICABILITY TO PUBLIC CHARTER DISTRICTS  
8 ~~[OPEN-ENROLLMENT CHARTER SCHOOLS]~~. A public charter district [~~An~~  
9 ~~open-enrollment charter school~~] is not entitled to an allotment  
10 under this subchapter.

11           SECTION 4.44. Section 53.02(13), Education Code, is amended  
12 to read as follows:

13                   (13) "Authorized charter school" means a public  
14 charter district [~~an open-enrollment charter school~~] that holds a  
15 charter granted under Chapter 11A [~~Subchapter D, Chapter 12~~].

16           SECTION 4.45. The heading to Section 53.351, Education  
17 Code, is amended to read as follows:

18           Sec. 53.351. BONDS FOR AUTHORIZED [~~OPEN-ENROLLMENT~~]  
19 CHARTER SCHOOL FACILITIES.

20           SECTION 4.46. Sections 53.351(a), (c), (d), (f), and (g),  
21 Education Code, are amended to read as follows:

22                   (a) The Texas Public Finance Authority shall establish a  
23 nonprofit corporation to issue revenue bonds on behalf of  
24 authorized [~~open-enrollment~~] charter schools for the acquisition,  
25 construction, repair, or renovation of educational facilities of  
26 those schools.

27                   (c) The corporation has all powers granted under the Texas

1 Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's  
2 Texas Civil Statutes) for the purpose of aiding authorized  
3 [~~open-enrollment~~] charter schools in providing educational  
4 facilities. The corporation may make expenditures from the fund  
5 described by Subsection (e) and may solicit and accept grants for  
6 deposit into the fund. In addition, Sections 53.131, 53.15, 53.31,  
7 53.32, 53.331, 53.34, 53.35, 53.36(a), and 53.37-53.42 apply to and  
8 govern the corporation and its procedures and bonds.

9 (d) The corporation shall adopt rules governing the  
10 issuance of bonds on behalf of an authorized [~~open-enrollment~~]  
11 charter school.

12 (f) A revenue bond issued under this section is not a debt of  
13 the state or any state agency, political corporation, or political  
14 subdivision of the state and is not a pledge of the faith and credit  
15 of any of these entities. A revenue bond is payable solely from the  
16 revenue of the authorized [~~open-enrollment~~] charter school on whose  
17 behalf the bond is issued. A revenue bond issued under this section  
18 must contain on its face a statement to the effect that:

19 (1) neither the state nor a state agency, political  
20 corporation, or political subdivision of the state is obligated to  
21 pay the principal of or interest on the bond; and

22 (2) neither the faith and credit nor the taxing power  
23 of the state or any state agency, political corporation, or  
24 political subdivision of the state is pledged to the payment of the  
25 principal of or interest on the bond.

26 (g) An educational facility financed in whole or in part  
27 under this section is exempt from taxation if the facility:

1           (1) is owned by an authorized [~~open-enrollment~~]  
2 charter school;

3           (2) is held for the exclusive benefit of the school;  
4 and

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

7           SECTION 4.47. Section 411.097(c), Government Code, is  
8 amended to read as follows:

9           (c) A public charter district [~~An open-enrollment charter~~  
10 ~~school~~] is entitled to obtain from the department criminal history  
11 record information maintained by the department that relates to a  
12 person who:

13           (1) is a member of the governing body of the public  
14 charter district [~~school~~], as defined by Section 11A.001 [~~12.1012~~],  
15 Education Code; or

16           (2) has agreed to serve as a member of the governing  
17 body of the public charter district [~~school~~].

18           SECTION 4.48. Sections 2175.128(a) and (b), Government  
19 Code, are amended to read as follows:

20           (a) If a disposition of a state agency's surplus or salvage  
21 data processing equipment is not made under Section 2175.125 or  
22 2175.184, the state agency shall transfer the equipment to:

23           (1) a school district or public charter district  
24 [~~open-enrollment charter school~~] in this state under Subchapter C,  
25 Chapter 32, Education Code;

26           (2) an assistance organization specified by the school  
27 district or public charter district; or

1 (3) the Texas Department of Criminal Justice.

2 (b) If a disposition of the surplus or salvage data  
3 processing equipment of a state eleemosynary institution or an  
4 institution or agency of higher education is not made under other  
5 law, the institution or agency shall transfer the equipment to:

6 (1) a school district or public charter district  
7 [~~open-enrollment charter school~~] in this state under Subchapter C,  
8 Chapter 32, Education Code;

9 (2) an assistance organization specified by the school  
10 district or public charter district; or

11 (3) the Texas Department of Criminal Justice.

12 SECTION 4.49. Section 2306.630(a), Government Code, is  
13 amended to read as follows:

14 (a) Subject to Subsection (b), the following entities may  
15 apply to receive a grant for an eligible project under this  
16 subchapter:

17 (1) a private, nonprofit, tax-exempt organization  
18 listed in Section 501(c)(3), Internal Revenue Code of 1986 (26  
19 U.S.C. Section 501(c)(3));

20 (2) a public agency that operates a community-based  
21 youth employment training program;

22 (3) a community housing development organization  
23 certified by the state;

24 (4) an educational facility approved by the Texas  
25 Youth Commission;

26 (5) a corps-based community service organization;

27 (6) a public charter district [~~an open-enrollment~~

1 ~~charter school~~] approved by the State Board of Education [~~Texas~~  
2 ~~Education Agency~~]; or

3 (7) another entity authorized by board rule.

4 SECTION 4.50. Section 1575.002(6), Insurance Code, is  
5 amended to read as follows:

6 (6) "Public school" means:

7 (A) a school district;

8 (B) another educational district whose employees  
9 are members of the Teacher Retirement System of Texas;

10 (C) a regional education service center  
11 established under Chapter 8, Education Code; or

12 (D) a public charter district [~~an~~  
13 ~~open-enrollment charter school~~] established under Chapter 11A  
14 [~~Subchapter D, Chapter 12~~], Education Code.

15 SECTION 4.51. Section 1579.002(3), Insurance Code, is  
16 amended to read as follows:

17 (3) "Charter school" means a public charter district  
18 [~~an open-enrollment charter school~~] established under Chapter 11A  
19 [~~Subchapter D, Chapter 12~~], Education Code.

20 SECTION 4.52. Section 140.005, Local Government Code, is  
21 amended to read as follows:

22 Sec. 140.005. ANNUAL FINANCIAL STATEMENT OF SCHOOL, ROAD,  
23 OR OTHER DISTRICT. The governing body of a school district, public  
24 charter district [~~open-enrollment charter school~~], junior college  
25 district, or a district or authority organized under Article III,  
26 Section 52, or Article XVI, Section 59, of the Texas Constitution,  
27 shall prepare an annual financial statement showing for each fund

1 subject to the authority of the governing body during the fiscal  
2 year:

3 (1) the total receipts of the fund, itemized by source  
4 of revenue, including taxes, assessments, service charges, grants  
5 of state money, gifts, or other general sources from which funds are  
6 derived;

7 (2) the total disbursements of the fund, itemized by  
8 the nature of the expenditure; and

9 (3) the balance in the fund at the close of the fiscal  
10 year.

11 SECTION 4.53. Section 140.006(c), Local Government Code, is  
12 amended to read as follows:

13 (c) The presiding officer of a school district shall submit  
14 a financial statement prepared under Section 140.005 to a daily,  
15 weekly, or biweekly newspaper published within the boundaries of  
16 the district. If a daily, weekly, or biweekly newspaper is not  
17 published within the boundaries of the school district, the  
18 financial statement shall be published in the manner provided by  
19 Subsections (a) and (b). The financial statement of a public  
20 charter district [~~an open-enrollment charter school~~] shall be made  
21 available in the manner provided by Chapter 552, Government Code.

22 SECTION 4.54. Section 375.303(2), Local Government Code, is  
23 amended to read as follows:

24 (2) "Eligible project" means a program authorized by  
25 Section 379A.051 and a project as defined by Sections 2(11) and  
26 4B(a)(2), Development Corporation Act of 1979 (Article 5190.6,  
27 Vernon's Texas Civil Statutes). Notwithstanding this definition,

1 seeking a charter for or operating a public charter district [~~an~~  
2 ~~open-enrollment charter school~~] authorized by Chapter 11A  
3 [~~Subchapter D, Chapter 12~~], Education Code, is [~~shall~~] not [~~be~~] an  
4 eligible project.

5 SECTION 4.55. Sections 375.308(b) and (c), Local Government  
6 Code, are amended to read as follows:

7 (b) An authority may not:

8 (1) issue bonds or notes without the prior approval of  
9 the governing body of the municipality that created the authority;

10 (2) seek a charter for or operate, within the  
11 boundaries of the authority, a public charter district [~~an~~  
12 ~~open-enrollment charter school~~] authorized by Chapter 11A  
13 [~~Subchapter D, Chapter 12~~], Education Code; or

14 (3) levy ad valorem property taxes.

15 (c) A municipality may not seek a charter for or operate a  
16 public charter district [~~an open-enrollment charter school~~]  
17 authorized by Chapter 11A [~~Subchapter D, Chapter 12~~], Education  
18 Code, within the boundaries of the authority.

19 SECTION 4.56. Section 541.201(15), Transportation Code, is  
20 amended to read as follows:

21 (15) "School activity bus" means a bus designed to  
22 accommodate more than 15 passengers, including the operator, that  
23 is owned, operated, rented, or leased by a school district, county  
24 school, public charter district [~~open-enrollment charter school~~],  
25 regional education service center, or shared services arrangement  
26 and that is used to transport public school students on a  
27 school-related activity trip, other than on routes to and from

1 school. The term does not include a chartered bus, a bus operated  
2 by a mass transit authority, or a school bus.

3 SECTION 4.57. Section 57.042(9), Utilities Code, is amended  
4 to read as follows:

5 (9) "Public school" means a public elementary or  
6 secondary school, including a public charter district [~~an~~  
7 ~~open-enrollment charter school~~], a home-rule school district  
8 school, and a school with a campus or campus program charter.

9 SECTION 4.58. Section 4(2), Chapter 22, Acts of the 57th  
10 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's  
11 Texas Civil Statutes), is amended to read as follows:

12 (2) "Educational institution" means a school district  
13 or a public charter district [~~an open-enrollment charter school~~].

14 SECTION 4.59. The following laws are repealed:

15 (1) Section 12.106, Education Code; and

16 (2) Section 40, Chapter 1504, Acts of the 77th  
17 Legislature, Regular Session, 2001.

18 SECTION 4.60. Notwithstanding the repeal of Sections 12.107  
19 and 12.128, Education Code, by this Act, those sections continue to  
20 apply to state funds and property received or purchased by an  
21 open-enrollment charter school before August 1, 2006.

22 SECTION 4.61. The changes in law made by Sections 4.04-4.60  
23 of this article apply beginning August 1, 2006, except that  
24 Sections 4.10, 4.11, 4.41, and 4.59 apply beginning on the 91st day  
25 after the last day of the legislative session.

26 [ARTICLES 5-6 RESERVED]

1 ARTICLE 7. ABOLISHMENT OF STATE BOARD FOR EDUCATOR CERTIFICATION;  
2 TRANSFER OF POWERS AND DUTIES

3 SECTION 7.01. Section 21.0031(a), Education Code, is  
4 amended to read as follows:

5 (a) An employee's probationary, continuing, or term  
6 contract under this chapter is void if the employee:

7 (1) does not hold a certificate or permit issued under  
8 Subchapter B [~~by the State Board for Educator Certification~~]; or

9 (2) fails to fulfill the requirements necessary to  
10 extend the employee's temporary or emergency certificate or permit.

11 SECTION 7.02. Sections 21.004(a)-(e), Education Code, are  
12 amended to read as follows:

13 (a) To the extent that funds are available, the agency[~~, the~~  
14 ~~State Board for Educator Certification,~~] and the Texas Higher  
15 Education Coordinating Board shall develop and implement programs  
16 to identify talented students and recruit those students and  
17 persons, including high school and undergraduate students,  
18 mid-career and retired professionals, honorably discharged and  
19 retired military personnel, and members of underrepresented gender  
20 and ethnic groups, into the teaching profession.

21 (b) From available funds, the agency[~~, the State Board for~~  
22 ~~Educator Certification,~~] and the Texas Higher Education  
23 Coordinating Board shall develop and distribute materials that  
24 emphasize the importance of the teaching profession and inform  
25 individuals about state-funded loan forgiveness and tuition  
26 assistance programs.

27 (c) The commissioner, in cooperation with the commissioner

1 of higher education [~~and the executive director of the State Board~~  
2 ~~for Educator Certification~~], shall annually identify the need for  
3 teachers in specific subject areas and geographic regions and among  
4 underrepresented groups. The commissioner shall give priority to  
5 developing and implementing recruitment programs to address those  
6 needs from the agency's discretionary funds.

7 (d) The agency [~~, the State Board for Educator~~  
8 ~~Certification,~~] and the Texas Higher Education Coordinating Board  
9 shall encourage the business community to cooperate with local  
10 schools to develop recruiting programs designed to attract and  
11 retain capable teachers, including programs to provide summer  
12 employment opportunities for teachers.

13 (e) The agency [~~, the State Board for Educator~~  
14 ~~Certification,~~] and the Texas Higher Education Coordinating Board  
15 shall encourage major education associations to cooperate in  
16 developing a long-range program promoting teaching as a career and  
17 to assist in identifying local activities and resources that may be  
18 used to promote the teaching profession.

19 SECTION 7.03. Section 21.006, Education Code, is amended by  
20 amending Subsections (a)-(c) and (e)-(g) and adding Subsection (h)  
21 to read as follows:

22 (a) In this section:

23 (1) "Abuse" [~~, "abuse"~~] has the meaning assigned by  
24 Section 261.001, Family Code, and includes any sexual conduct  
25 involving an educator and a student or minor.

26 (2) "Board" means the Educators' Professional  
27 Practices Board.

1 (b) In addition to the reporting requirement under Section  
2 261.101, Family Code, the superintendent or director of a school  
3 district, regional education service center, or shared services  
4 arrangement shall notify the commissioner [~~State Board for Educator~~  
5 ~~Certification~~] if the superintendent or director has reasonable  
6 cause to believe that:

7 (1) an educator employed by or seeking employment by  
8 the district, service center, or shared services arrangement has a  
9 criminal record;

10 (2) an educator's employment at the district, service  
11 center, or shared services arrangement was terminated based on a  
12 determination that the educator:

13 (A) abused or otherwise committed an unlawful act  
14 with a student or minor;

15 (B) possessed, transferred, sold, or distributed  
16 a controlled substance, as defined by Chapter 481, Health and  
17 Safety Code, or by 21 U.S.C. Section 801 et seq. [~~and its~~  
18 ~~subsequent amendments~~];

19 (C) illegally transferred, appropriated, or  
20 expended funds or other property of the district, service center,  
21 or shared services arrangement;

22 (D) attempted by fraudulent or unauthorized  
23 means to obtain or alter a professional certificate or license for  
24 the purpose of promotion or additional compensation; or

25 (E) committed a criminal offense or any part of a  
26 criminal offense on school property or at a school-sponsored event;  
27 or

1           (3) the educator resigned and reasonable evidence  
2 supports a recommendation by the superintendent or director to  
3 terminate the educator based on a determination that the educator  
4 engaged in misconduct described by Subdivision (2).

5           (c) The superintendent or director must notify the  
6 commissioner [~~State Board for Educator Certification~~] by filing a  
7 report with the commissioner [~~board~~] not later than the seventh day  
8 after the date the superintendent or director first learns about an  
9 alleged incident of misconduct described by Subsection (b). The  
10 report must be:

11           (1) in writing; and

12           (2) in a form prescribed by the board.

13           (e) A superintendent or director who in good faith and while  
14 acting in an official capacity files a report with the commissioner  
15 [~~State Board for Educator Certification~~] under this section is  
16 immune from civil or criminal liability that might otherwise be  
17 incurred or imposed.

18           (f) The board, acting on a recommendation of the  
19 commissioner, [~~State Board for Educator Certification~~] shall  
20 determine whether to impose sanctions against a superintendent or  
21 director who fails to file a report in violation of Subsection (c).

22           (g) The commissioner [~~State Board for Educator~~  
23 ~~Certification~~] shall adopt [~~propose~~] rules as necessary to  
24 implement this section.

25           (h) The commissioner shall forward a report received under  
26 this section to the board for use as the commissioner determines  
27 appropriate in the execution of the board's duties.

1 SECTION 7.035. Subchapter A, Chapter 21, Education Code, is  
2 amended by adding Section 21.007 to read as follows:

3 Sec. 21.007. RECOMMENDATION TO SANCTION. The commissioner  
4 shall determine whether to recommend a sanction against an educator  
5 to the Educators' Professional Practices Board under this chapter.  
6 The board shall make a final determination regarding the imposition  
7 of a sanction under this chapter, except that the commissioner may  
8 impose any sanction through informal disposition by stipulation,  
9 agreed settlement, consent order, or default.

10 SECTION 7.04. Sections 21.031 and 21.032, Education Code,  
11 are amended to read as follows:

12 Sec. 21.031. PURPOSE. (a) The Educators' Professional  
13 Practices [State] Board [~~for Educator Certification~~] is  
14 established in the agency to [~~recognize public school educators as~~  
15 ~~professionals and to grant educators the authority to govern the~~  
16 ~~standards of their profession. The board shall]~~ regulate and  
17 oversee [~~all aspects of~~] the [~~certification, continuing education,~~  
18 ~~and]~~ standards of conduct of public school educators.

19 (b) The commissioner shall adopt rules governing the  
20 certification of educators and continuing education for educators.  
21 In adopting [In proposing] rules under this subchapter, the  
22 commissioner [board] shall ensure that all candidates for  
23 certification or renewal of certification demonstrate the  
24 knowledge and skills necessary to improve the performance of the  
25 diverse student population of this state.

26 Sec. 21.032. DEFINITION. In this subchapter, "board" means  
27 the Educators' Professional Practices [State] Board [~~for Educator~~

1 ~~Certification]~~.

2 SECTION 7.05. The heading to Section 21.033, Education  
3 Code, is amended to read as follows:

4 Sec. 21.033. EDUCATORS' PROFESSIONAL PRACTICES [~~STATE~~]  
5 BOARD [~~FOR EDUCATOR CERTIFICATION~~].

6 SECTION 7.06. Section 21.033, Education Code, is amended by  
7 amending Subsection (a) and adding Subsections (a-1), (d), (e), and  
8 (f) to read as follows:

9 (a) The board [~~State Board for Educator Certification~~] is  
10 composed of 11 [~~14~~] members[~~. The commissioner of education shall~~  
11 ~~appoint an employee of the agency to represent the commissioner as a~~  
12 ~~nonvoting member. The commissioner of higher education shall~~  
13 ~~appoint an employee of the Texas Higher Education Coordinating~~  
14 ~~Board to represent the commissioner as a nonvoting member. The~~  
15 ~~governor shall appoint a dean of a college of education in this~~  
16 ~~state as a nonvoting member. The remaining 11 members are]~~  
17 appointed by the commissioner [~~governor with the advice and consent~~  
18 ~~of the senate,~~] as follows:

19 (1) six [~~four~~] members must be classroom teachers,  
20 appointed as provided by Subsection (a-1) [~~employed in public~~  
21 ~~schools~~];

22 (2) not more than two members of the board may [~~must~~]  
23 be [~~public~~] school administrators; and

24 (3) a number of other members consistent with this  
25 subsection who the commissioner determines are qualified [~~one~~  
26 ~~member must be a public school counselor, and~~

27 [~~(4) four members must be citizens, three of whom are~~

1 ~~not and have not, in the five years preceding appointment, been~~  
2 ~~employed by a public school district or by an educator preparation~~  
3 ~~program in an institution of higher education and one of whom is not~~  
4 ~~and has not been employed by a public school district or by an~~  
5 ~~educator preparation program in an institution of higher~~  
6 ~~education].~~

7 (a-1) In appointing a board member under Subsection (a)(1),  
8 the commissioner shall:

9 (1) appoint teachers with at least five years'  
10 experience as public school classroom teachers;

11 (2) give preference to teachers who have received  
12 state or national awards for teaching excellence; and

13 (3) provide an opportunity for professional educator  
14 associations to submit nominations for the appointment.

15 (d) The commissioner shall designate a member of the board  
16 as the presiding officer of the board to serve in that capacity at  
17 the pleasure of the commissioner.

18 (e) The agency shall provide administrative services for  
19 the board as necessary.

20 (f) A reference in law to the State Board for Educator  
21 Certification means the Educators' Professional Practices Board.

22 SECTION 7.07. Section 21.034, Education Code, is amended to  
23 read as follows:

24 Sec. 21.034. TERMS; VACANCY. (a) The board members  
25 [~~appointed by the governor~~] hold office for staggered terms of six  
26 years with the terms of one-third, or as near to one-third as  
27 possible, of the members expiring on February 1 of each

1 odd-numbered year. [~~A member appointed by the commissioner of~~  
2 ~~education or the commissioner of higher education serves at the~~  
3 ~~will of the appointing commissioner.~~]

4 (b) In the event of a vacancy during a term of a member  
5 [~~appointed by the governor~~], the commissioner [~~governor~~] shall  
6 appoint a replacement who meets the qualifications of the vacated  
7 office to fill the unexpired portion of the term.

8 (c) A vacancy arises if a member [~~appointed by the governor~~]  
9 no longer qualifies for the office to which the member was  
10 appointed, as determined by the commissioner.

11 SECTION 7.075. Section 21.035, Education Code, as amended  
12 by H.B. No. 1116, Acts of the 79th Legislature, Regular Session,  
13 2005, is amended to read as follows:

14 Sec. 21.035. APPLICATION OF SUNSET ACT. The board is  
15 subject to Chapter 325, Government Code (Texas Sunset Act). Unless  
16 continued in existence as provided by that chapter, the board is  
17 abolished and this subchapter expires on the date prescribed by  
18 Section 7.004 for abolishment of the agency. [~~The Texas Education~~  
19 ~~Agency shall provide the board's administrative functions and~~  
20 ~~services.~~]

21 SECTION 7.08. Subchapter B, Chapter 21, Education Code, is  
22 amended by adding Section 21.0391 to read as follows:

23 Sec. 21.0391. ADVISORY COMMITTEE. (a) The commissioner  
24 shall appoint an advisory committee composed of holders of each  
25 class of educator certificate and stakeholders as required under  
26 Chapter 2008, Government Code.

27 (b) The advisory committee shall recommend educator

1 certification standards under Section 21.041(b)(4) and educator  
2 preparation program standards under Section 21.044 and propose  
3 rules under those sections to the commissioner through negotiated  
4 rulemaking under Chapter 2008, Government Code. For purposes of  
5 that chapter, the advisory committee is considered to be the  
6 negotiated rulemaking committee described by Section 2008.054,  
7 Government Code. As provided by Section 2008.058, Government Code,  
8 the commissioner may propose and adopt a rule that has not been  
9 recommended or proposed by the advisory committee.

10 (c) The commissioner may not finally adopt or amend a rule  
11 subject to this section unless the State Board of Education has  
12 failed to reject the rule or amendment by an affirmative vote of  
13 four-fifths of its members. A vote under this subsection may be  
14 conducted by mail ballot, provided that the State Board of  
15 Education has at least 30 days' written notice of the proposed final  
16 rule adoption.

17 (d) Members of the advisory committee serve at the will of  
18 the commissioner.

19 SECTION 7.09. Section 21.041, Education Code, is amended by  
20 adding Subsection (a-1) and amending Subsection (b) to read as  
21 follows:

22 (a-1) The board shall adopt rules that provide for the  
23 adoption and amendment of an educator's code of ethics.

24 (b) The commissioner [~~board~~] shall adopt [~~propose~~] rules  
25 that:

26 (1) provide for the issuance and renewal of educator  
27 certificates [~~regulation of educators and the general~~]

1 ~~administration of this subchapter]~~ in a manner consistent with this  
2 subchapter;

3 (2) specify the classes of educator certificates to be  
4 issued, including emergency certificates;

5 (3) specify the period for which each class of  
6 educator certificate is valid;

7 (4) specify the requirements for the issuance and  
8 renewal of an educator certificate;

9 (5) provide for the issuance of an educator  
10 certificate to a person who holds a similar certificate issued by  
11 another state or foreign country, subject to Section 21.052;

12 (6) provide for special or restricted certification of  
13 educators, including certification of instructors of American Sign  
14 Language;

15 (7) provide for disciplinary proceedings, including:

16 (A) the suspension or revocation of an educator  
17 certificate, as provided by Chapter 2001, Government Code; and

18 (B) enforcement of an educator's code of ethics  
19 adopted by the board;

20 (8) ~~[provide for the adoption, amendment, and~~  
21 ~~enforcement of an educator's code of ethics;~~

22 [~~9~~] provide for continuing education requirements;  
23 [~~and~~]

24 (9) [~~10~~] provide for certification of persons  
25 performing appraisals under Subchapter H; and

26 (10) provide for the regulation of educators in a  
27 manner consistent with this subchapter.

1 SECTION 7.10. Section 21.044, Education Code, is amended to  
2 read as follows:

3 Sec. 21.044. EDUCATOR PREPARATION. The commissioner  
4 [~~board~~] shall adopt [~~propose~~] rules establishing the training  
5 requirements a person must accomplish to obtain a certificate,  
6 enter an internship, or enter an induction-year program. The  
7 commissioner [~~board~~] shall specify the minimum academic  
8 qualifications required for a certificate.

9 SECTION 7.11. Sections 21.045(b)-(d), Education Code, are  
10 amended to read as follows:

11 (b) Each educator preparation program shall submit data  
12 elements as required by the commissioner [~~board~~] for an annual  
13 performance report to ensure access and equity. At a minimum, the  
14 annual report must contain the performance data from Subsection (a)  
15 and the following information, disaggregated by sex and ethnicity:

- 16 (1) the number of candidates who apply;  
17 (2) the number of candidates admitted;  
18 (3) the number of candidates retained;  
19 (4) the number of candidates completing the program;  
20 (5) the number of candidates employed in the  
21 profession after completing the program; and  
22 (6) the number of candidates retained in the  
23 profession.

24 (c) The commissioner [~~board~~] shall adopt [~~propose~~] rules  
25 establishing performance standards for the Accountability System  
26 for Educator Preparation for accrediting educator preparation  
27 programs. At a minimum, performance standards must be based on

1 Subsection (a). The commissioner [~~board~~] shall adopt [~~propose~~]  
2 rules for the sanction of educator preparation programs and shall  
3 annually review the accreditation status of each educator  
4 preparation program.

5 (d) The commissioner [~~executive director of the board~~]  
6 shall appoint an oversight team of educators to make  
7 recommendations and provide assistance to educator preparation  
8 programs that do not meet accreditation standards. If, after one  
9 year, an educator preparation program has not fulfilled the  
10 recommendations of the oversight team, the commissioner [~~executive~~  
11 ~~director~~] shall appoint a person to administer and manage the  
12 operations of the program. If the program does not improve after  
13 two years, the commissioner [~~board~~] shall revoke the approval of  
14 the program to prepare educators for state certification.

15 SECTION 7.12. Sections 21.046(c) and (d), Education Code,  
16 are amended to read as follows:

17 (c) Because an effective principal is essential to school  
18 improvement, the commissioner [~~board~~] shall ensure that:

19 (1) each candidate for certification as a principal is  
20 of the highest caliber; and

21 (2) multi-level screening processes, validated  
22 comprehensive assessment programs, and flexible internships with  
23 successful mentors exist to determine whether a candidate for  
24 certification as a principal possesses the essential knowledge,  
25 skills, and leadership capabilities necessary for success.

26 (d) In creating the qualifications for certification as a  
27 principal, the commissioner [~~board~~] shall consider the knowledge,

1 skills, and proficiencies for principals as developed by relevant  
2 national organizations and the State Board of Education.

3 SECTION 7.125. Subchapter B, Chapter 21, Education Code, is  
4 amended by adding Section 21.0461 to read as follows:

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

8 (1) assistant principal;

9 (2) principal; or

10 (3) superintendent.

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

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

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

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

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

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

26 (e) A certificate issued under this section:

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

1 which the certificate was issued; and

2 (2) is not renewable.

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

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

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

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

17 (1) mentoring; and

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

19 SECTION 7.13. Section 21.048(a), Education Code, is amended  
20 to read as follows:

21 (a) The commissioner [~~board~~] shall adopt [~~propose~~] rules  
22 prescribing comprehensive examinations for each class of  
23 certificate issued by the board.

24 SECTION 7.14. Sections 21.0481, 21.0482, 21.0483, 21.0484,  
25 and 21.049, Education Code, are amended to read as follows:

26 Sec. 21.0481. MASTER READING TEACHER CERTIFICATION. (a)  
27 To ensure that there are teachers with special training to work with

1 other teachers and with students in order to improve student  
2 reading performance, the commissioner [~~board~~] shall establish a  
3 master reading teacher certificate.

4 (b) The board shall issue a master reading teacher  
5 certificate to each eligible person.

6 (c) To be eligible for a master reading teacher certificate,  
7 a person must:

8 (1) hold a reading specialist certificate issued under  
9 this subchapter and satisfactorily complete a course of instruction  
10 as prescribed under Subdivision (2)(B); or

11 (2) hold a teaching certificate issued under this  
12 subchapter and:

13 (A) have at least three years of teaching  
14 experience;

15 (B) satisfactorily complete a knowledge-based  
16 and skills-based course of instruction on the science of teaching  
17 children to read that includes training in:

18 (i) effective reading instruction  
19 techniques, including effective techniques for students whose  
20 primary language is a language other than English;

21 (ii) identification of dyslexia and related  
22 reading disorders and effective reading instruction techniques for  
23 students with those disorders; and

24 (iii) effective professional peer  
25 mentoring techniques;

26 (C) perform satisfactorily on the master reading  
27 teacher certification examination prescribed by the commissioner

1 [~~board~~]; and

2 (D) satisfy any other requirements prescribed by  
3 the commissioner [~~board~~].

4 Sec. 21.0482. MASTER MATHEMATICS TEACHER CERTIFICATION.

5 (a) To ensure that there are teachers with special training to work  
6 with other teachers and with students in order to improve student  
7 mathematics performance, the commissioner [~~board~~] shall establish:

8 (1) a master mathematics teacher certificate to teach  
9 mathematics at elementary school grade levels;

10 (2) a master mathematics teacher certificate to teach  
11 mathematics at middle school grade levels; and

12 (3) a master mathematics teacher certificate to teach  
13 mathematics at high school grade levels.

14 (b) The board shall issue the appropriate master  
15 mathematics teacher certificate to each eligible person.

16 (c) To be eligible for a master mathematics teacher  
17 certificate, a person must:

18 (1) hold a teaching certificate issued under this  
19 subchapter;

20 (2) have at least three years of teaching experience;

21 (3) satisfactorily complete a knowledge-based course  
22 of instruction on the science of teaching children mathematics that  
23 includes training in mathematics instruction and professional peer  
24 mentoring techniques that, through scientific testing, have been  
25 proven effective;

26 (4) perform satisfactorily on the appropriate master  
27 mathematics teacher certification examination prescribed by the

1 commissioner [~~board~~]; and

2 (5) satisfy any other requirements prescribed by the  
3 commissioner [~~board~~].

4 (d) The course of instruction prescribed under Subsection  
5 (c)(3) shall be developed by the commissioner [~~board~~] in  
6 consultation with mathematics and science faculty members at  
7 institutions of higher education.

8 Sec. 21.0483. MASTER TECHNOLOGY TEACHER CERTIFICATION. (a)  
9 To ensure that there are teachers with special training to work with  
10 other teachers and with students in order to increase the use of  
11 technology in each classroom, the commissioner [~~board~~] shall  
12 establish a master technology teacher certificate.

13 (b) The board shall issue a master technology teacher  
14 certificate to each eligible person.

15 (c) To be eligible for a master technology teacher  
16 certificate, a person must:

17 (1) hold a technology applications or Technology  
18 Education certificate issued under this subchapter, satisfactorily  
19 complete the course of instruction prescribed under Subdivision  
20 (2)(B), and satisfactorily perform on the examination prescribed  
21 under Subdivision (2)(C); or

22 (2) hold a teaching certificate issued under this  
23 subchapter and:

24 (A) have at least three years of teaching  
25 experience;

26 (B) satisfactorily complete a knowledge-based  
27 and skills-based course of instruction on interdisciplinary

1 technology applications and the science of teaching technology that  
2 includes training in:

3 (i) effective technology instruction  
4 techniques, including applications designed to meet the  
5 educational needs of students with disabilities;

6 (ii) classroom teaching methodology that  
7 engages student learning through the integration of technology;

8 (iii) digital learning competencies,  
9 including Internet research, graphics, animation, website  
10 mastering, and video technologies;

11 (iv) curriculum models designed to prepare  
12 teachers to facilitate an active student learning environment; and

13 (v) effective professional peer mentoring  
14 techniques;

15 (C) satisfactorily perform on an examination  
16 developed in cooperation with the Telecommunications  
17 Infrastructure Fund Board and administered at the conclusion of the  
18 course of instruction prescribed under Paragraph (B); and

19 (D) satisfy any other requirements prescribed by  
20 the commissioner [~~board~~].

21 (d) The commissioner [~~board~~] may provide technology  
22 applications training courses under Subsection (c)(2)(B) in  
23 cooperation with:

24 (1) regional education service centers; and

25 (2) other public or private entities, including any  
26 state council on technology.

27 Sec. 21.0484. MASTER SCIENCE TEACHER CERTIFICATION. (a)

1 To ensure that there are teachers with special training to work with  
2 other teachers and with students in order to improve student  
3 science performance, the commissioner [~~board~~] shall establish:

4 (1) a master science teacher certificate to teach  
5 science at elementary school grade levels;

6 (2) a master science teacher certificate to teach  
7 science at middle school grade levels; and

8 (3) a master science teacher certificate to teach  
9 science at high school grade levels.

10 (b) The board shall issue the appropriate master science  
11 teacher certificate to each eligible person.

12 (c) To be eligible for a master science teacher certificate,  
13 a person must:

14 (1) hold a teaching certificate issued under this  
15 subchapter;

16 (2) have at least three years of teaching experience;

17 (3) satisfactorily complete a knowledge-based course  
18 of instruction on the science of teaching children science that  
19 includes training in science instruction and professional peer  
20 mentoring techniques that, through scientific testing, have been  
21 proven effective;

22 (4) perform satisfactorily on the appropriate master  
23 science teacher certification examination prescribed by the  
24 commissioner [~~board~~]; and

25 (5) satisfy any other requirements prescribed by the  
26 commissioner [~~board~~].

27 (d) The course of instruction prescribed under Subsection

1 (c)(3) shall be developed by the commissioner [~~board~~] in  
2 consultation with science faculty members at institutions of higher  
3 education.

4 Sec. 21.049. ALTERNATIVE CERTIFICATION. (a) To provide a  
5 continuing additional source of qualified educators, the  
6 commissioner [~~board~~] shall adopt [~~propose~~] rules providing for  
7 educator certification programs as an alternative to traditional  
8 educator preparation programs. The rules may not provide that a  
9 person may be certified under this section only if there is a  
10 demonstrated shortage of educators in a school district or subject  
11 area.

12 (b) The commissioner [~~board~~] may not require a person  
13 employed as a teacher in a disciplinary [~~an~~] alternative education  
14 program under Section 37.008 or a juvenile justice alternative  
15 education program under Section 37.011 for at least three years to  
16 complete an alternative educator certification program adopted  
17 under this section before taking the appropriate certification  
18 examination.

19 SECTION 7.15. Section 21.050(a), Education Code, is amended  
20 to read as follows:

21 (a) A person who applies for a teaching certificate for  
22 which commissioner [~~board~~] rules require a bachelor's degree must  
23 possess a bachelor's degree received with an academic major or  
24 interdisciplinary academic major, including reading, other than  
25 education, that is related to the curriculum as prescribed under  
26 Subchapter A, Chapter 28.

27 SECTION 7.16. Section 21.051, Education Code, is amended to

1 read as follows:

2           Sec. 21.051. OPTIONS FOR FIELD EXPERIENCE AND INTERNSHIPS.  
3 The commissioner [~~board~~] shall adopt [~~propose~~] rules providing  
4 flexible options for persons for any field experience or internship  
5 required for certification.

6           SECTION 7.17. Section 21.054(a), Education Code, is amended  
7 to read as follows:

8           (a) The commissioner [~~board~~] shall adopt [~~propose~~] rules  
9 establishing a process for identifying continuing education  
10 courses and programs that fulfill educators' continuing education  
11 requirements.

12           SECTION 7.18. Section 21.056, Education Code, is amended to  
13 read as follows:

14           Sec. 21.056. ADDITIONAL CERTIFICATION. The commissioner  
15 [~~board~~] by rule shall provide for a certified educator to qualify  
16 for additional certification to teach at a grade level or in a  
17 subject area not covered by the educator's certificate upon  
18 satisfactory completion of an examination or other assessment of  
19 the educator's qualification.

20           SECTION 7.19. Section 21.057(d), Education Code, is amended  
21 to read as follows:

22           (d) For purposes of this section, "inappropriately  
23 certified or uncertified teacher":

24                   (1) includes:

25                           (A) an individual serving on an emergency  
26 certificate issued under Section 21.041(b)(2); or

27                           (B) an individual who does not hold any

1 certificate or permit issued under this chapter and is not employed  
2 as specified by Subdivision (2)(E); and

3 (2) does not include an individual:

4 (A) who is a certified teacher assigned to teach  
5 a class or classes outside his or her area of certification, as  
6 determined by rules adopted [~~proposed~~] by the commissioner [~~board~~]  
7 in specifying the certificate required for each assignment;

8 (B) serving on a certificate issued due to a  
9 hearing impairment under Section 21.048;

10 (C) serving on a certificate issued pursuant to  
11 enrollment in an approved alternative certification program under  
12 Section 21.049;

13 (D) certified by another state or country and  
14 serving on a certificate issued under Section 21.052;

15 (E) serving on a school district teaching permit  
16 issued under Section 21.055; or

17 (F) employed under a waiver granted by the  
18 commissioner pursuant to Section 7.056.

19 SECTION 7.20. Section 21.058(d), Education Code, is amended  
20 to read as follows:

21 (d) A person whose certificate is revoked under Subsection  
22 (b) may reapply for a certificate in accordance with commissioner  
23 [~~board~~] rules.

24 SECTION 7.21. Section 21.105(c), Education Code, is amended  
25 to read as follows:

26 (c) On written complaint by the employing district and  
27 recommendation by the commissioner, the Educators' Professional

1 Practices [State] Board [~~for Educator Certification~~] may impose  
2 sanctions against a teacher employed under a probationary contract  
3 who:

- 4 (1) resigns;
- 5 (2) fails without good cause to comply with Subsection  
6 (a) or (b); and
- 7 (3) fails to perform the contract.

8 SECTION 7.22. Section 21.160(c), Education Code, is amended  
9 to read as follows:

10 (c) On written complaint by the employing district and  
11 recommendation by the commissioner, the Educators' Professional  
12 Practices [State] Board [~~for Educator Certification~~] may impose  
13 sanctions against a teacher who is employed under a continuing  
14 contract that obligates the district to employ the person for the  
15 following school year and who:

- 16 (1) resigns;
- 17 (2) fails without good cause to comply with Subsection  
18 (a) or (b); and
- 19 (3) fails to perform the contract.

20 SECTION 7.23. Section 21.210(c), Education Code, is amended  
21 to read as follows:

22 (c) On written complaint by the employing district and  
23 recommendation by the commissioner, the Educators' Professional  
24 Practices [State] Board [~~for Educator Certification~~] may impose  
25 sanctions against a teacher who is employed under a term contract  
26 that obligates the district to employ the person for the following  
27 school year and who:

- 1           (1) resigns;
- 2           (2) fails without good cause to comply with Subsection
- 3 (a) or (b); and
- 4           (3) fails to perform the contract.

5           SECTION 7.24. Section 21.503, Education Code, is amended to

6 read as follows:

7           Sec. 21.503. ELIGIBILITY. A person is eligible for the

8 program if the person:

- 9           (1) has served in the armed forces of the United
- 10 States;
- 11           (2) is honorably discharged, retired, or released from
- 12 active duty on or after October 1, 1990, after at least six years of
- 13 continuous active duty service immediately before the discharge,
- 14 retirement, or release;
- 15           (3) has received a baccalaureate or advanced degree
- 16 from a public or private institution of higher education accredited
- 17 by a regional accrediting agency or group that is recognized by a
- 18 nationally recognized accreditation board; and
- 19           (4) satisfies any other criteria for selection
- 20 [~~jointly~~] prescribed by the agency [~~and the State Board for~~
- 21 ~~Educator Certification~~].

22           SECTION 7.25. Section 21.504(b), Education Code, is amended

23 to read as follows:

24           (b) The agency [~~and the State Board for Educator~~

25 ~~Certification~~] shall distribute the applications and information

26 regarding the program.

27           SECTION 7.26. Section 21.510(c), Education Code, is amended

1 to read as follows:

2 (c) For purposes of this section, a participant in the  
3 program is not considered to be in violation of an agreement under  
4 Section 21.508 during any period in which the participant:

5 (1) is pursuing a full-time course of study related to  
6 the field of teaching at a public or private institution of higher  
7 education approved by the agency [~~State Board for Educator~~  
8 ~~Certification~~];

9 (2) is serving on active duty as a member of the armed  
10 forces of the United States;

11 (3) is temporarily totally disabled for a period not  
12 to exceed three years as established by sworn affidavit of a  
13 qualified physician;

14 (4) is unable to secure employment for a period not to  
15 exceed one year because of care required by a disabled spouse;

16 (5) is seeking and unable to find full-time employment  
17 as a teacher in a public elementary or secondary school for a single  
18 period not to exceed 27 months; or

19 (6) satisfies the provisions of any additional  
20 reimbursement exception adopted by the agency.

21 SECTION 7.27. Sections 21.551, 21.552, and 21.553,  
22 Education Code, are amended to read as follows:

23 Sec. 21.551. PURPOSES. The purposes of the alternative  
24 certification Teach for Texas Pilot Program are to:

25 (1) attract to the teaching profession persons who  
26 have expressed interest in teaching and to support the  
27 certification of those persons as teachers;

1           (2) recognize the importance of the certification  
2 process governed by the commissioner [~~State Board for Educator~~  
3 ~~Certification~~] under Subchapter B, which requires verification of  
4 competence in subject area and professional knowledge and skills;

5           (3) encourage the creation and expansion of educator  
6 preparation programs that recognize the knowledge and skills gained  
7 through previous educational and work-related experiences and that  
8 are delivered in a manner that recognizes individual circumstances,  
9 including the need to remain employed full-time while enrolled in  
10 the Teach for Texas Pilot Program; and

11           (4) provide annual stipends to postbaccalaureate  
12 teacher certification candidates.

13           Sec. 21.552. PROGRAM ESTABLISHED. The commissioner [~~State~~  
14 ~~Board for Educator Certification~~] by rule shall establish the Teach  
15 for Texas Pilot Program consistent with the purposes provided by  
16 Section 21.551.

17           Sec. 21.553. FINANCIAL INCENTIVES. (a) The pilot program  
18 must offer to participants financial incentives, including tuition  
19 assistance and loan forgiveness. In offering a financial  
20 incentive, the commissioner [~~State Board for Educator~~  
21 ~~Certification~~] shall:

22           (1) require a contract between each participant who  
23 accepts a financial incentive and the agency [~~State Board for~~  
24 ~~Educator Certification~~] under which the participant is obligated to  
25 teach in a public school in this state for a stated period after  
26 certification;

27           (2) provide financial incentives in proportion to the

1 length of the period the participant is obligated by contract to  
2 teach after certification; and

3 (3) give special financial incentives to a participant  
4 who agrees in the contract to teach in an underserved area.

5 (b) Financial incentives may be paid only from funds  
6 appropriated specifically for that purpose and from gifts, grants,  
7 and donations solicited or accepted by the commissioner [~~State  
8 Board for Educator Certification~~] for that purpose.

9 (c) The commissioner [~~State Board for Educator  
10 Certification~~] shall adopt [~~propose~~] rules establishing criteria  
11 for awarding financial incentives under this section, including  
12 criteria for awarding financial incentives if there are more  
13 participants than funds available to provide the financial  
14 incentives.

15 SECTION 7.28. Section 21.604(b), Education Code, is amended  
16 to read as follows:

17 (b) The agency [~~and the State Board for Educator  
18 Certification~~] shall distribute the applications and information  
19 regarding the program.

20 SECTION 7.29. Section 21.609(c), Education Code, is amended  
21 to read as follows:

22 (c) For purposes of this section, a participant in the  
23 program is not considered to be in violation of an agreement under  
24 Section 21.607 during any period in which the participant:

25 (1) is pursuing a full-time course of study related to  
26 the field of teaching at an institution of higher education  
27 approved by the agency [~~State Board for Educator Certification~~];

1 (2) is serving on active duty as a member of the armed  
2 forces of the United States;

3 (3) is temporarily totally disabled for a period not  
4 to exceed three years as established by affidavit of a qualified  
5 physician;

6 (4) is unable to secure employment for a period not to  
7 exceed one year because of care required by a disabled spouse;

8 (5) is seeking and unable to find full-time employment  
9 as a teacher in a public elementary or secondary school for a single  
10 period not to exceed 27 months; or

11 (6) satisfies the provisions of any additional  
12 reimbursement exception adopted by the agency.

13 SECTION 7.30. Section 22.0512(b), Education Code, is  
14 amended to read as follows:

15 (b) In this section, "disciplinary proceeding" means:

16 (1) an action brought by the school district employing  
17 a professional employee of a school district to discharge or  
18 suspend the employee or terminate or not renew the employee's term  
19 contract; or

20 (2) an action brought by the Educators' Professional  
21 Practices [~~State~~] Board [~~for Educator Certification~~] to enforce the  
22 educator's code of ethics adopted under Section 21.041(a-1)  
23 [~~21.041(b)(8)~~].

24 SECTION 7.31. Sections 29.061(a)-(c) and (e), Education  
25 Code, are amended to read as follows:

26 (a) The commissioner [~~State Board for Educator~~  
27 ~~Certification~~] shall provide for the issuance of teaching

1 certificates appropriate for bilingual education instruction to  
2 teachers who possess a speaking, reading, and writing ability in a  
3 language other than English in which bilingual education programs  
4 are offered and who meet the general requirements of Chapter 21.  
5 The commissioner [~~board~~] shall also provide for the issuance of  
6 teaching certificates appropriate for teaching English as a second  
7 language. The commissioner [~~board~~] may issue emergency  
8 endorsements in bilingual education and in teaching English as a  
9 second language.

10 (b) A teacher assigned to a bilingual education program must  
11 be appropriately certified under Subchapter B, Chapter 21, for  
12 bilingual education [~~by the board~~].

13 (c) A teacher assigned to an English as a second language or  
14 other special language program must be appropriately certified  
15 under Subchapter B, Chapter 21, for English as a second language [~~by~~  
16 ~~the board~~].

17 (e) The agency [~~State Board for Educator Certification~~] and  
18 the Texas Higher Education Coordinating Board shall develop a  
19 comprehensive plan for meeting the teacher supply needs created by  
20 the programs outlined in this subchapter.

21 SECTION 7.32. Sections 33.002(b) and (c), Education Code,  
22 are amended to read as follows:

23 (b) A school district with 500 or more students enrolled in  
24 elementary school grades shall employ a counselor certified under  
25 the rules of the commissioner [~~State Board for Educator~~  
26 ~~Certification~~] for each elementary school in the district. A  
27 school district shall employ at least one counselor for every 500

1 elementary school students in the district.

2 (c) A school district with fewer than 500 students enrolled  
3 in elementary school grades shall provide guidance and counseling  
4 services to elementary school students by:

5 (1) employing a part-time counselor certified under  
6 the rules of the commissioner [~~State Board for Educator  
7 Certification~~];

8 (2) employing a part-time teacher certified as a  
9 counselor under the rules of the commissioner [~~State Board for  
10 Educator Certification~~]; or

11 (3) entering into a shared services arrangement  
12 agreement with one or more school districts to share a counselor  
13 certified under the rules of the commissioner [~~State Board for  
14 Educator Certification~~].

15 SECTION 7.33. Section 37.007(g), Education Code, as amended  
16 by H.B. No. 603, Acts of the 79th Legislature, Regular Session,  
17 2005, is amended to read as follows:

18 (g) In addition to any notice required under Article 15.27,  
19 Code of Criminal Procedure, a school district shall inform each  
20 educator who has responsibility for, or is under the direction and  
21 supervision of an educator who has responsibility for, the  
22 instruction of a student who has engaged in any violation listed in  
23 this section of the student's misconduct. Each educator shall keep  
24 the information received under this subsection confidential from  
25 any person not entitled to the information under this subsection,  
26 except that the educator may share the information with the  
27 student's parent or guardian as provided for by state or federal

1 law. The Educators' Professional Practices [~~State~~] Board on  
2 recommendation of the commissioner [~~for Educator Certification~~]  
3 may revoke or suspend the certification of an educator who  
4 intentionally violates this subsection.

5 SECTION 7.34. Section 61.0514, Education Code, is amended  
6 to read as follows:

7 Sec. 61.0514. INTEGRATED COURSEWORK. The board, with the  
8 cooperation and advice of the commissioner of education [~~State~~  
9 ~~Board for Educator Certification~~], shall adopt educator  
10 preparation coursework guidelines that promote, to the greatest  
11 extent practicable, the integration of subject matter knowledge  
12 with classroom teaching strategies and techniques in order to  
13 maximize the effectiveness and efficiency of coursework required  
14 for certification under Subchapter B, Chapter 21.

15 SECTION 7.35. Section 61.076, Education Code, as amended by  
16 H.B. No. 2808, Acts of the 79th Legislature, Regular Session, 2005,  
17 is amended by amending Subsection (b) and adding Subsection (j) to  
18 read as follows:

19 (b) The P-16 Council is composed of the commissioner of  
20 education, the commissioner of higher education, the executive  
21 director of the Texas Workforce Commission, [~~the executive director~~  
22 ~~of the State Board for Educator Certification~~], and the  
23 commissioner of assistive and rehabilitative services. The  
24 commissioner of higher education and the commissioner of education  
25 shall serve as co-chairs of the council.

26 (j) The P-16 Council, in conjunction with the State Center  
27 for Early Childhood Development, shall develop and adopt a school

1 readiness certification system as required by Section 29.161.

2 SECTION 7.36. Section 1001.254(a), Education Code, is  
3 amended to read as follows:

4 (a) A temporary driver education instructor license may be  
5 issued authorizing a person to teach or provide classroom driver  
6 education training if the person:

7 (1) has completed the educational requirements  
8 prescribed by Section 1001.253(d)(1);

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

11 (3) meets all license requirements, other than  
12 successful completion of the examination required under rules  
13 adopted by the commissioner [~~State Board for Educator~~  
14 ~~Certification~~] to revalidate the teaching certificate; and

15 (4) demonstrates, in a manner prescribed by the  
16 commissioner, the intention to comply with the examination  
17 requirement at the first available opportunity.

18 SECTION 7.37. Article 15.27(a), Code of Criminal Procedure,  
19 is amended to read as follows:

20 (a) A law enforcement agency that arrests any person or  
21 refers a child to the office or official designated by the juvenile  
22 board who the agency believes is enrolled as a student in a public  
23 primary or secondary school, for an offense listed in Subsection  
24 (h), shall attempt to ascertain whether the person is so enrolled.  
25 If the law enforcement agency ascertains that the individual is  
26 enrolled as a student in a public primary or secondary school, the  
27 agency shall orally notify the superintendent or a person

1 designated by the superintendent in the school district in which  
2 the student is enrolled of that arrest or referral within 24 hours  
3 after the arrest or referral is made, or on the next school day. If  
4 the law enforcement agency cannot ascertain whether the individual  
5 is enrolled as a student, the agency shall orally notify the  
6 superintendent or a person designated by the superintendent in the  
7 school district in which the student is believed to be enrolled of  
8 that arrest or detention within 24 hours after the arrest or  
9 detention, or on the next school day. If the individual is a  
10 student, the superintendent shall promptly notify all  
11 instructional and support personnel who have responsibility for  
12 supervision of the student. All personnel shall keep the  
13 information received in this subsection confidential. The  
14 Educators' Professional Practices [State] Board [~~for Educator~~  
15 ~~Certification~~] may revoke or suspend the certification of personnel  
16 who intentionally violate this subsection. Within seven days after  
17 the date the oral notice is given, the law enforcement agency shall  
18 mail written notification, marked "PERSONAL and CONFIDENTIAL" on  
19 the mailing envelope, to the superintendent or the person  
20 designated by the superintendent. Both the oral and written notice  
21 shall contain sufficient details of the arrest or referral and the  
22 acts allegedly committed by the student to enable the  
23 superintendent or the superintendent's designee to determine  
24 whether there is a reasonable belief that the student has engaged in  
25 conduct defined as a felony offense by the Penal Code. The  
26 information contained in the notice may be considered by the  
27 superintendent or the superintendent's designee in making such a

1 determination.

2 SECTION 7.38. Article 42.018(b), Code of Criminal  
3 Procedure, is amended to read as follows:

4 (b) Not later than the fifth day after the date a person who  
5 holds a certificate issued under Subchapter B, Chapter 21,  
6 Education Code, is convicted or granted deferred adjudication on  
7 the basis of an offense, the clerk of the court in which the  
8 conviction or deferred adjudication is entered shall provide to the  
9 Texas Education Agency and the Educators' Professional Practices  
10 ~~[State] Board [for Educator Certification]~~ written notice of the  
11 person's conviction or deferred adjudication, including the  
12 offense on which the conviction or deferred adjudication was based.

13 SECTION 7.39. Section 654.011(a), Government Code, is  
14 amended to read as follows:

15 (a) The position classification plan and the salary rates  
16 and provisions in the General Appropriations Act apply to all  
17 hourly, part-time, temporary, and regular, full-time salaried  
18 employments in the state departments, agencies, or judicial  
19 entities specified in the articles of the General Appropriations  
20 Act that appropriate money to:

- 21 (1) general government agencies;
- 22 (2) health and human services agencies;
- 23 (3) the judiciary, except for judges, district  
24 attorneys, and assistant district attorneys;
- 25 (4) public safety and criminal justice agencies;
- 26 (5) natural resources agencies;
- 27 (6) business and economic development agencies;

1 (7) regulatory agencies; and

2 (8) agencies of public education, but only the Texas  
3 Education Agency, the Texas School for the Blind and Visually  
4 Impaired, ~~[the State Board for Educator Certification]~~, the  
5 Telecommunications Infrastructure Fund, and the Texas School for  
6 the Deaf.

7 SECTION 7.40. Section 821.001(7), Government Code, is  
8 amended to read as follows:

9 (7) "Employer" means any agents or agencies in the  
10 state responsible for public education, including the governing  
11 board of any school district created under the laws of this state,  
12 any county school board, the board of trustees, the board of regents  
13 of any college or university, or any other legally constituted  
14 board or agency of any public school, but excluding the State Board  
15 of Education and~~[~~ the Texas Education Agency~~], and the State~~  
16 ~~Board for Educator Certification]~~.

17 SECTION 7.41. Section 821.103, Government Code, is amended  
18 to read as follows:

19 Sec. 821.103. REVOCATION ~~[CANCELLATION]~~ OF TEACHER  
20 CERTIFICATE. (a) After receiving notice from the board of  
21 trustees of an offense under Section 821.101 and after complying  
22 with Chapter 2001 and rules adopted by the Educators' Professional  
23 Practices ~~[State]~~ Board ~~[for Educator Certification]~~, the board  
24 ~~[State Board for Educator Certification]~~ may revoke ~~[cancel]~~ the  
25 teacher certificate of a person if the board ~~[State Board for~~  
26 ~~Educator Certification]~~ determines that the person committed the  
27 offense.

1 (b) The Educators' Professional Practices [~~executive~~  
2 ~~director of the State~~] Board [~~for Educator Certification~~] may enter  
3 into an agreed sanction.

4 (c) A criminal prosecution of an offender under Section  
5 821.101 is not a prerequisite to action by the Educators'  
6 Professional Practices [~~State~~] Board [~~for Educator Certification~~  
7 ~~or its executive director~~].

8 SECTION 7.42. Section 2054.352(a), Government Code, as  
9 amended by S.B. No. 411, Acts of the 79th Legislature, Regular  
10 Session, 2005, is amended to read as follows:

11 (a) The following licensing entities shall participate in  
12 the system established under Section 2054.353:

- 13 (1) Texas Board of Chiropractic Examiners;
- 14 (2) Court Reporters Certification Board;
- 15 (3) State Board of Dental Examiners;
- 16 (4) Texas Funeral Service Commission;
- 17 (5) Texas Board of Professional Land Surveying;
- 18 (6) Texas State Board of Medical Examiners;
- 19 (7) Board of Nurse Examiners;
- 20 (8) Texas Optometry Board;
- 21 (9) Texas Structural Pest Control Board;
- 22 (10) Texas State Board of Pharmacy;
- 23 (11) Executive Council of Physical Therapy and  
24 Occupational Therapy Examiners;
- 25 (12) Texas State Board of Plumbing Examiners;
- 26 (13) Texas State Board of Podiatric Medical Examiners;
- 27 (14) Board of Tax Professional Examiners;

- 1 (15) Polygraph Examiners Board;
- 2 (16) Texas State Board of Examiners of Psychologists;
- 3 (17) State Board of Veterinary Medical Examiners;
- 4 (18) Texas Real Estate Commission;
- 5 (19) Texas Appraiser Licensing and Certification
- 6 Board;
- 7 (20) Texas Department of Licensing and Regulation;
- 8 (21) Texas State Board of Public Accountancy;
- 9 (22) Educators' Professional Practices [State] Board
- 10 [~~for Educator Certification~~];
- 11 (23) Texas Board of Professional Engineers;
- 12 (24) Department of State Health Services;
- 13 (25) Texas Board of Architectural Examiners;
- 14 (26) Texas Racing Commission;
- 15 (27) Commission on Law Enforcement Officer Standards
- 16 and Education; [~~and~~]
- 17 (28) Texas Private Security Board; and
- 18 (29) Texas Education Agency.

19 SECTION 7.43. Section 504.002(b), Occupations Code, is  
20 amended to read as follows:

21 (b) This chapter does not apply to an activity or service of  
22 a person who:

23 (1) is employed as a counselor by a federal  
24 institution and is providing chemical dependency counseling within  
25 the scope of the person's employment;

26 (2) except as provided by Section 504.1515 [~~504.057~~],  
27 is a student, intern, or trainee pursuing a supervised course of

1 study in counseling at a regionally accredited institution of  
2 higher education or training institution, if the person:

3 (A) is designated as a "counselor intern"; and

4 (B) is engaging in the activity or providing the  
5 service as part of the course of study;

6 (3) is not a resident of this state, if the person:

7 (A) engages in the activity or provides the  
8 service in this state for not more than 30 days during any year; and

9 (B) is authorized to engage in the activity or  
10 provide the service under the law of the state of the person's  
11 residence;

12 (4) is a licensed physician, psychologist,  
13 professional counselor, or social worker;

14 (5) is a religious leader of a congregation providing  
15 pastoral chemical dependency counseling within the scope of the  
16 person's duties;

17 (6) is working for or providing counseling with a  
18 program exempt under Subchapter C, Chapter 464, Health and Safety  
19 Code; or

20 (7) is a school counselor certified under Subchapter  
21 B, Chapter 21, Education Code [~~by the State Board for Educator~~  
22 ~~Certification~~].

23 SECTION 7.44. Sections 21.036, 21.040, 21.042, and 21.047,  
24 Education Code, are repealed.

25 SECTION 7.45. (a) The State Board for Educator  
26 Certification is abolished, and all powers, duties, personnel,  
27 property, assets, and obligations of the board are transferred to

1 the Educators' Professional Practices Board and the Texas Education  
2 Agency, as determined appropriate by the commissioner of education.  
3 The validity of a prior action of the State Board for Educator  
4 Certification is not affected by the abolishment, and any pending  
5 activities of the State Board for Educator Certification shall be  
6 deemed to have continued without interruption or material change.

7 (b) The powers and duties of the Educators' Professional  
8 Practices Board, as created by this Act, shall continue to be  
9 exercised by the State Board for Educator Certification until the  
10 initial appointees of the Educators' Professional Practices Board  
11 assume their offices, which may not be later than January 1, 2006.

12 (c) All rules of the State Board for Educator Certification  
13 relating to a transferred power or duty remain in effect as rules of  
14 the Educators' Professional Practices Board or commissioner of  
15 education, as appropriate, until amended or repealed by the board  
16 or commissioner.

17 (d) A contested case, rulemaking procedure, program, test,  
18 fee, contract, review, evaluation, sanction, act, or decision of  
19 the State Board for Educator Certification that is pending,  
20 completed, or in effect on the effective date of this Act shall be  
21 deemed that of the commissioner of education or the Educators'  
22 Professional Practices Board to the extent authorized by Subchapter  
23 B, Chapter 21, Education Code, as amended by this article, or other  
24 law, until and unless a change is expressly made by the commissioner  
25 or the board, as appropriate.

26 (e) As soon as practicable after the effective date of this  
27 article and not later than December 1, 2005, the commissioner shall

1 make initial appointments to the Educators' Professional Practices  
2 Board. In making the initial appointments, the commissioner shall  
3 designate four members to serve terms expiring February 1, 2007,  
4 four members to serve terms expiring February 1, 2009, and three  
5 members to serve terms expiring February 1, 2011.

6 (f) A person who holds a certificate issued under Subchapter  
7 B, Chapter 21, Education Code, as it existed on January 1, 2005, may  
8 continue to practice under that certificate until the certificate  
9 is renewed or replaced under Subchapter B, Chapter 21, Education  
10 Code, as amended by this article.

11 (g) The code of ethics adopted under Subchapter B, Chapter  
12 21, Education Code, by the State Board for Educator Certification  
13 and in effect on the effective date of this article remains in  
14 effect until superseded by rules of the Educators' Professional  
15 Practices Board.

16 ARTICLE 8. REPEALER; EFFECTIVE DATE

17 SECTION 8.01. Effective on the 91st day after the last day  
18 of the legislative session, the following provisions are repealed:

19 (1) Sections 1-3, Chapter 201, Acts of the 78th  
20 Legislature, Regular Session, 2003;

21 (2) Section 4, S.B. No. 23, Acts of the 79th  
22 Legislature, Regular Session, 2005;

23 (3) Sections 21.357, 21.402(b) and (e), 29.056(h),  
24 39.027(b), (c), and (f), 39.051(d), 39.073, 39.074, and 39.112,  
25 Education Code;

26 (4) Section 1579.253(b), Insurance Code; and

27 (5) Subchapter O, Chapter 1581, Insurance Code.

1 SECTION 8.02. Effective September 1, 2006, the following  
2 provisions are repealed:

3 (1) Subchapters B, C, E, F, and G, Chapter 41,  
4 Education Code;

5 (2) Chapter 42, Education Code, as it existed on  
6 January 1, 2006;

7 (3) Sections 29.203(c) and (g), 39.024(e), 41.001,  
8 41.002, 41.003, 41.0031, 41.007, 41.009(b), 41.011, 41.092,  
9 41.099, 41.252(b), 44.004(c) and (d), and 105.301(f), Education  
10 Code;

11 (4) Section 403.302(j), Government Code;

12 (5) Section 1581.053(b), Insurance Code;

13 (6) Subchapter C, Chapter 1581, Insurance Code; and

14 (7) Sections 6.02(g), 6.03(m), 21.02(b) and 26.08(k),  
15 (l), and (m), Tax Code.

16 SECTION 8.03. (a) Except as otherwise provided by this Act,  
17 and subject to Subsection (b) of this section, this Act takes effect  
18 on the 91st day after the last day of the legislative session.

19 (b) Notwithstanding any other provision of this Act, this  
20 Act takes effect only if H.B. No. \_\_, Acts of the 79th Legislature,  
21 \_\_\_ Called Session, 2005, or similar legislation enacted by the  
22 79th or a subsequent legislature that specifically references this  
23 section, becomes law. If H.B. No. \_\_, Acts of the 79th Legislature,  
24 \_\_\_ Called Session, 2005, or similar legislation enacted by the  
25 79th or a subsequent legislature that specifically references this  
26 section, does not become law, this Act has no effect. This  
27 subsection does not apply to Section 2E.47 of this Act.