

ENGROSSED

A BILL TO BE ENTITLED

AN ACT

relating to public education and public school finance matters.

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

ARTICLE 1. PUBLIC SCHOOL FINANCE

PART A. EDUCATION FUNDING

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

CHAPTER 42. FOUNDATION SCHOOL PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

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

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

1 Sec. 42.002. PURPOSES OF FOUNDATION SCHOOL PROGRAM. (a)
2 The purposes of the Foundation School Program set forth in this
3 chapter are to guarantee that each school district in the state has:

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

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

9 (b) The Foundation School Program consists of:

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

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

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

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

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

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

27 (c) A child may be enrolled in the first grade if the child

1 is at least six years of age at the beginning of the school year of
2 the district or has been enrolled in the first grade or has
3 completed kindergarten in the public schools in another state
4 before transferring to a public school in this state.

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

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

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

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

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

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

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

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

1 Section 29.0821(b) (1) divided by the number of actual days of
2 instruction as permitted by Section 29.0821(b) (1); or

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

7 (b) A school district that experiences a decline of more
8 than two percent in average daily attendance shall be funded on the
9 basis of an average daily attendance equal to 98 percent of the
10 actual average daily attendance of the preceding school year.

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

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

19 (e) An open-enrollment charter school is not entitled to
20 funding based on an adjustment under Subsection (b).

21 Sec. 42.006. EQUALIZED FUNDING ELEMENTS. (a) The
22 Legislative Budget Board shall adopt rules, subject to appropriate
23 notice and opportunity for public comment, for the calculation for
24 each year of a biennium of the equalized funding elements, in
25 accordance with Subsection (c), necessary to achieve the state
26 policy under Section 42.001.

27 (b) Before each regular session of the legislature, the

1 board shall report the equalized funding elements to the
2 commissioner and the legislature.

3 (c) The funding elements must include:

4 (1) accreditation allotment amounts for the purposes
5 of Section 42.101 that represent the cost per student of a regular
6 education program that meets all mandates of law and regulation;

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

10 (3) appropriate program cost differentials and other
11 funding elements for the programs authorized under Subchapter C,
12 with the program funding level expressed as total dollar amounts
13 for each program and the specific dollar amount to be provided for
14 each eligible student or course for the appropriate year;

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

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

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

21 (d) The board shall conduct a study of the funding elements
22 each biennium, as appropriate. The study must include a
23 determination of the projected cost to the state in the next state
24 fiscal biennium of ensuring the ability of each school district to
25 comply with all legal mandates and regulations without increasing
26 district tax rates.

27 (e) Notwithstanding Subsection (d), the board shall

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

5 Sec. 42.007. REFERENCE TO FOUNDATION SCHOOL FUND. A
6 reference in law to the foundation school fund means the Texas
7 education fund.

8 (Sections 42.008-42.100 reserved for expansion)

9 SUBCHAPTER B. BASIC PROGRAM

10 Sec. 42.101. ACCREDITATION ALLOTMENT AND SPECIAL STUDENT
11 ALLOTMENTS. (a) For each student in average daily attendance, a
12 school district is entitled to an accreditation allotment of:

13 (1) \$4,550, if the student is enrolled below the ninth
14 grade level; or

15 (2) \$5,050, if the student is enrolled at or above the
16 ninth grade level.

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

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

22 (Sections 42.102-42.150 reserved for expansion)

23 SUBCHAPTER C. SPECIAL STUDENT ALLOTMENTS

24 Sec. 42.151. SPECIAL EDUCATION ALLOTMENTS. (a) In this
25 section:

26 (1) "Full-time equivalent student" means 30 hours of
27 contact a week between a student and special education program

1 personnel.

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

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

8 (c) For each full-time equivalent student in average daily
9 attendance in a special education program in an instructional
10 arrangement other than a mainstream instructional arrangement, a
11 school district is entitled to an annual allotment in the following
12 amount, based on the student's instructional arrangement:

13 (1) \$17,370, for a student in a homebound
14 instructional arrangement;

15 (2) \$8,602, for a student in a hospital class
16 instructional arrangement;

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

19 (4) \$8,602, for a student in a resource room
20 instructional arrangement;

21 (5) \$8,602, for a student in a self-contained, mild
22 and moderate, regular campus instructional arrangement;

23 (6) \$8,602, for a student in a self-contained, severe,
24 regular campus instructional arrangement;

25 (7) \$7,287, for a student in an off-home-campus
26 instructional arrangement;

27 (8) \$2,903, for a student in a nonpublic day school;

1 (9) \$5,533, for a student in a vocational adjustment
2 class;

3 (10) \$12,986, for a student who resides in a
4 residential care and treatment facility, other than a state school,
5 whose parent or guardian does not reside in the district, and who
6 receives educational services from a local school district; and

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

9 (d) For funding purposes, the number of contact hours
10 credited per day for each special education student in the
11 off-home-campus instructional arrangement may not exceed the
12 contact hours credited per day for the multidistrict class
13 instructional arrangement in the 1992-1993 school year.

14 (e) For funding purposes, the contact hours credited per day
15 for each special education student in the resource room;
16 self-contained, mild and moderate, regular campus; and
17 self-contained, severe, regular campus instructional arrangements
18 may not exceed the average of the statewide total contact hours
19 credited per day for those three instructional arrangements in the
20 1992-1993 school year.

21 (f) The State Board of Education by rule shall prescribe the
22 qualifications a special education instructional arrangement must
23 meet in order to be funded as a particular instructional
24 arrangement under this chapter. In prescribing the qualifications
25 that a mainstream instructional arrangement must meet, the board
26 shall require that students with disabilities and their teachers
27 receive the direct, indirect, and support services that are

1 necessary to enrich the regular classroom and enable student
2 success.

3 (g) The State Board of Education shall adopt rules and
4 procedures governing contracts for residential placement of
5 special education students. The legislature shall provide by
6 appropriation for the state's share of the costs of those
7 placements.

8 (h) Except as provided by Subsection (m), funds allocated
9 under this section, other than an indirect cost allotment
10 established under State Board of Education rule, must be used in the
11 special education program under Subchapter A, Chapter 29.

12 (i) The agency shall encourage the placement of students in
13 special education programs, including students in residential
14 instructional arrangements, in the least restrictive environment
15 appropriate for students' educational needs.

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

23 (k) A school district that provides an extended year program
24 required by federal law for special education students who may
25 regress is entitled to receive, for each full-time equivalent
26 student in average daily attendance, funds in an amount equal to 75
27 percent, or a lesser percentage determined by the commissioner, of

1 the sum of the accreditation allotment and the additional allotment
2 for the student's instructional arrangement under this section for
3 each day the program is provided divided by the number of days in
4 the minimum school year. The total amount of state funding for
5 extended year services under this subsection may not exceed \$10
6 million per year. A school district may use funds received under
7 this subsection only in providing an extended year program.

8 (1) From the total amount of funds appropriated for special
9 education under this chapter, the commissioner shall withhold an
10 amount specified in the General Appropriations Act and distribute
11 that amount to school districts for programs under Section 29.014.
12 The program established under that section is required only in
13 school districts in which the program is financed by funds
14 distributed under this subsection and any other funds available for
15 the program. After deducting the amount withheld under this
16 subsection from the total amount appropriated for special
17 education, the commissioner shall reduce each district's
18 allocation proportionately.

19 (m) Notwithstanding any other provision of law, a school
20 district may use funds allocated under this section to provide
21 Saturday classes for students in grade levels one through four who
22 fail to perform satisfactorily on an assessment instrument
23 administered under Section 39.023.

24 Sec. 42.152. ACCELERATED PROGRAMS ALLOTMENT. (a) A school
25 district is entitled to an annual allotment for the costs of
26 providing accelerated programs in an amount determined by the
27 formula:

1 APA = 877 X ADA X PR

2 where:

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

4 "ADA" is the district's total number of students in average
5 daily attendance; and

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

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

18 (c) In addition to the allotment provided by Subsection (a),
19 the legislature may also provide funding by appropriation for any
20 program or activity formerly funded under Section 42.152, as that
21 section existed on January 1, 2005. Funding provided under this
22 subsection is not considered a special student allotment for
23 purposes of Sections 42.301 and 42.302 or any other provision in
24 this chapter that refers to special student allotments.

25 Sec. 42.153. TRANSITIONAL PROGRAM ALLOTMENT. (a) For each
26 student in average daily attendance in a bilingual education or
27 special language program under Subchapter B, Chapter 29, a district

1 is entitled to an annual allotment of:

2 (1) \$500, if the student is enrolled below the ninth
3 grade level; or

4 (2) \$1,000, if the student is enrolled at or above the
5 ninth grade level.

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

8 Sec. 42.154. CAREER AND TECHNOLOGY EDUCATION ALLOTMENT.

9 (a) For each student in average daily attendance in an approved
10 career and technology education program in grades seven through 12,
11 a district is entitled to an annual allotment of \$178 for each
12 annual credit hour the student is enrolled in the program, or a
13 greater amount for any school year provided by appropriation.

14 (b) The agency may not withdraw or revoke approval for a
15 career and technology education program that was approved as of
16 January 1, 2005.

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

24 (b) The total number of allotments under this section to
25 which a school district is entitled may not exceed the number by
26 which the number of students using public education grants to
27 attend school in the district exceeds the number of students who

1 reside in the district and use public education grants to attend
2 school in another district.

3 (Sections 42.156-42.170 reserved for expansion)

4 Sec. 42.171. RESTRICTIONS ON USE OF ALLOTMENTS. (a) Unless
5 specifically provided otherwise by this code, but subject to
6 Section 42.172, a school district is not required to use amounts
7 allotted under this subchapter for the program for which the
8 amounts were allotted.

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

13 Sec. 42.172. MAINTENANCE OF EFFORT. (a) Notwithstanding
14 any other provision of this code, but subject to Subsection (b), a
15 school district may not spend in any school year for a program or
16 service listed below an amount per student in average daily
17 attendance that is less than the amount the district spent for that
18 program or service per student in average daily attendance during
19 the 2004-2005 school year:

20 (1) a special education program under Subchapter A,
21 Chapter 29;

22 (2) supplemental programs and services designed to
23 eliminate any disparity in performance on assessment instruments
24 administered under Subchapter B, Chapter 39, or disparity in the
25 rates of high school completion between students at risk of
26 dropping out of school, as defined by Section 29.081, and all other
27 students;

1 (3) a bilingual education or special language program
2 under Subchapter B, Chapter 29;

3 (4) a career and technology education program in
4 grades nine through 12 or a career and technology education program
5 for students with disabilities in grades seven through 12 under
6 Sections 29.182, 29.183, and 29.184; or

7 (5) a gifted and talented program under Subchapter D,
8 Chapter 29.

9 (b) The commissioner may authorize a school district to
10 spend less than the amount required by this section if the
11 commissioner, considering the district's unique circumstances,
12 determines that the requirement imposes an undue hardship on the
13 district.

14 (Sections 42.173-42.200 reserved for expansion)

15 SUBCHAPTER D. TRANSPORTATION ALLOTMENT

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

20 (b) If the amount of an allotment under this section that a
21 school district or county receives exceeds the district's or
22 county's cost of operating the transportation system, the district
23 or county may use the excess funds for any legal purpose.

24 (Sections 42.202-42.220 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. DEFINITION. In this subchapter,
4 "instructional facility" has the meaning assigned by Section
5 46.001.

6 Sec. 42.223. ALLOTMENT FOR FIRST YEAR OF OPERATION. For the
7 first school year in which students attend a new instructional
8 facility, a school district is entitled to an allotment of \$250 for
9 each student in average daily attendance at the facility or a
10 greater amount provided by appropriation.

11 Sec. 42.224. ALLOTMENT FOR SECOND YEAR OF OPERATION. (a)
12 For the second school year in which students attend a new
13 instructional facility, a school district is entitled to an
14 allotment of \$250 for each additional student in average daily
15 attendance at the facility or a greater amount provided by
16 appropriation.

17 (b) For purposes of this section, the number of additional
18 students in average daily attendance at a facility is the
19 difference between the number of students in average daily
20 attendance in the current year at that facility and the number of
21 students in average daily attendance at that facility in the
22 preceding year.

23 Sec. 42.225. PRORATION OF ALLOTMENTS. If the total amount
24 of allotments to which school districts are entitled under this
25 subchapter for a school year exceeds the amount appropriated for
26 allotments under this subchapter, the commissioner shall reduce
27 each district's allotment under this subchapter in the manner

1 provided by Section 42.313(f).

2 Sec. 42.226. APPLICABILITY TO CERTAIN DISTRICTS. A school
3 district subject to Section 42.401 that elects to purchase average
4 daily attendance credit under Subchapter D, Chapter 41, is entitled
5 to a credit, in the amount of the allotments to which the district
6 is entitled under this subchapter, against the total amount
7 required under Section 41.093 for the district to purchase
8 attendance credits.

9 (Sections 42.227-42.240 reserved for expansion)

10 SUBCHAPTER F. INSTRUCTIONAL MATERIALS AND
11 TECHNOLOGY ALLOTMENT

12 Sec. 42.241. INSTRUCTIONAL MATERIALS AND TECHNOLOGY
13 ALLOTMENT. (a) For each student in average daily attendance, a
14 school district is entitled to an annual allotment of \$150.

15 (b) Funds allotted under this section may be used only to
16 purchase approved instructional materials, including online
17 instructional materials.

18 (c) This section applies beginning with the 2006-2007
19 school year. This subsection expires September 1, 2007.

20 (Sections 42.242-42.250 reserved for expansion)

21 SUBCHAPTER G. ENRICHMENT PROGRAM

22 Sec. 42.251. PURPOSE. The purpose of the enrichment
23 program component of the Foundation School Program is to provide
24 each school district with the opportunity to supplement the basic
25 program at a level of its own choice. An allotment under this
26 subchapter may be used for any legal purpose other than capital
27 outlay or debt service.

1 Sec. 42.252. ALLOTMENT. (a) In this section, "wealth per
2 student" means a school district's taxable value of property, as
3 determined under Subchapter M, Chapter 403, Government Code,
4 divided by the number of students in attendance in the district, and
5 adjusted to reflect the effects of Subchapters C, D, and H.

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

11 GYA = (A X EF X DETR X 100) - LR

12 where:

13 "GYA" is the guaranteed amount of state enrichment funds to
14 be allocated to the district;

15 "A" is the quotient of the sum of the district's allotments
16 under Subchapters B, C, and D, as adjusted in accordance with
17 Subchapter H, divided by the number of cents used to determine the
18 district's local share under Section 42.306;

19 "EF" is the equity factor, which is determined by the
20 commissioner by dividing the amount of district enrichment tax
21 revenue per cent of tax effort available to a school district at the
22 90th percentile in wealth per student, as determined by the
23 commissioner in the manner provided by Subsection (c), by the
24 amount of "A" for a school district at the 90th percentile in wealth
25 per student, or a greater factor for any year provided by
26 appropriation;

27 "DETR" is the district enrichment tax rate of the school

1 district, which is determined by multiplying the district's adopted
2 tax rate by the ratio of the actual taxable value of the property in
3 the district for the current tax year divided by the taxable value
4 of property in the district for the preceding year as determined
5 under Subchapter M, Chapter 403, Government Code, and subtracting
6 \$1.00, except that:

7 (1) a district whose adopted tax rate does not exceed
8 \$1.00 per \$100 of valuation is not entitled to enrichment revenue;
9 and

10 (2) a district's enrichment tax rate may not exceed the
11 amount by which the district's adopted tax rate exceeds \$1.00 per
12 \$100 of valuation; and

13 "LR" is the local revenue, which is determined by multiplying
14 "DETR" by the quotient of the district's taxable value of property
15 as determined under Subchapter M, Chapter 403, Government Code,
16 divided by 100.

17 (c) Not later than March 1 of each year, the commissioner
18 shall make an initial determination of the amount of district
19 enrichment tax revenue per cent of tax effort available to a school
20 district at the 90th percentile in wealth per student, based on the
21 preliminary taxable values of property certified by the comptroller
22 under Section 403.302(g), Government Code, and the estimates of
23 student attendance in the General Appropriations Act. Not later
24 than July 15 of each year, the commissioner shall make a final
25 determination of the amount that reflects the final taxable values
26 of property certified by the comptroller under Subchapter M,
27 Chapter 403, Government Code. The commissioner's determination of

1 a final amount under this subsection may not be appealed.

2 (d) The amount to which a school district is entitled for a
3 school year as a result of the commissioner's determination under
4 Subsection (c) is not subject to subsequent adjustment on the
5 grounds that the amount of revenue available to a district at the
6 90th percentile in wealth per student, as determined based on
7 actual taxable property values and student attendance, differed
8 from the amount determined by the commissioner on the basis of
9 estimated taxable property values and student attendance.

10 Sec. 42.253. DISTRICT ENRICHMENT TAX. (a) The district
11 enrichment tax rate may not exceed \$0.10 per \$100 of valuation.

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

14 (1) for the 2005 tax year, the rate of \$0.02 per \$100
15 of valuation;

16 (2) for the 2006 tax year, the rate of \$0.04 per \$100
17 of valuation;

18 (3) for the 2007 tax year, the rate of \$0.06 per \$100
19 of valuation; and

20 (4) for the 2008 tax year, the rate of \$0.08 per \$100
21 of valuation.

22 (b) A school district's enrichment tax rate must be approved
23 by the voters in accordance with Section 45.003 and Section 26.08,
24 Tax Code.

25 (c) Subsection (a-1) and this subsection expire January 1,
26 2009.

27 Sec. 42.254. COMPUTATION OF ENRICHMENT AID FOR DISTRICT ON

1 MILITARY INSTALLATION OR AT STATE SCHOOL. State enrichment
2 assistance under this subchapter for a school district located on a
3 federal military installation or at Moody State School is computed
4 using the average district enrichment tax rate and property value
5 per student of school districts in the county, as determined by the
6 commissioner.

7 (Sections 42.255-42.300 reserved for expansion)

8 SUBCHAPTER H. ADDITIONAL ADJUSTMENTS; FINANCING THE PROGRAM

9 Sec. 42.301. COST OF EDUCATION ADJUSTMENT. (a) The amounts
10 of the accreditation allotments under Subchapter B and each special
11 student allotment under Subchapter C are adjusted to reflect the
12 geographic variation in known resource costs and costs of education
13 due to factors beyond the control of the school district. The
14 amount of the adjustment is 50 percent of the total amount that
15 would result from application of the cost of education index
16 adopted under Subsection (b), or a greater amount for any school
17 year provided by appropriation.

18 (b) The Legislative Budget Board shall adopt a cost of
19 education index based on a statistical analysis conducted on a
20 revenue neutral basis that is designed to isolate the independent
21 effects of uncontrollable factors on the compensation that school
22 districts must pay, including teacher salaries and other benefits.
23 The analysis must include, at a minimum, variations in teacher
24 characteristics, teacher work environments, and the economic and
25 social conditions of the communities in which teachers reside.

26 (b-1) For the 2005-2006 school year, the cost of education
27 index for purposes of Subsection (a) is based on the average of the

1 teacher fixed effects index in the 2004 report commissioned by the
2 Joint Select Committee on Public School Finance of the 78th
3 Legislature and the index used to determine a school district's
4 adjustment for the 2004-2005 school year. For the 2006-2007 school
5 year, the cost of education index for purposes of Subsection (a) is
6 the teacher fixed effects index in the 2004 report commissioned by
7 the Joint Select Committee on Public School Finance of the 78th
8 Legislature. This subsection expires September 1, 2007.

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

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

18 In this section:

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

21 (2) "ADA" is the number of students in average daily
22 attendance for which the district is entitled to an accreditation
23 allotment under Section 42.101; and

24 (3) "SA" is the sum of the district's accreditation
25 allotments under Subchapter B and each special student allotment
26 under Subchapter C.

27 (b) The sum of the total accreditation allotments and any

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

$$5 \quad A = ((1,600 - ADA) \times .0004) \times SA$$

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

$$11 \quad A = ((1,600 - ADA) \times .00025) \times SA$$

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

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

$$20 \quad (2) \quad A = ((5,000 - ADA) \times .000025) \times SA$$

21 Sec. 42.303. SPARSITY ADJUSTMENT. (a) Notwithstanding
22 Sections 42.101 and 42.302:

23 (1) a school district that has fewer than 130 students
24 in average daily attendance is entitled to an adjusted
25 accreditation allotment on the basis of 130 students in average
26 daily attendance if the district offers a kindergarten through
27 grade 12 program and has preceding or current year's average daily

1 attendance of at least 90 students or is 30 miles or more by bus
2 route from the nearest high school district;

3 (2) a school district that offers a kindergarten
4 through grade eight program and whose preceding or current year's
5 average daily attendance was or is at least 50 students or that is
6 30 miles or more by bus route from the nearest high school district
7 is entitled to an adjusted accreditation allotment on the basis of
8 75 students in average daily attendance; and

9 (3) a school district that offers a kindergarten
10 through grade six program and whose preceding or current year's
11 average daily attendance was or is at least 40 students or that is
12 30 miles or more by bus route from the nearest high school district
13 is entitled to an adjusted accreditation allotment on the basis of
14 60 students in average daily attendance.

15 (b) For purposes of computing an adjusted accreditation
16 allotment under Subsection (a) (1):

17 (1) the school district is entitled to an
18 accreditation allotment under Section 42.101(a) (1) determined by
19 dividing the number of students in actual average daily attendance
20 who are enrolled below the ninth grade level by the district's total
21 actual average daily attendance and multiplying the resulting
22 quotient by 130; and

23 (2) the school district is entitled to an
24 accreditation allotment under Section 42.101(a) (2) determined by
25 dividing the number of students in actual average daily attendance
26 who are enrolled at or above the ninth grade level by the district's
27 total actual average daily attendance and multiplying the resulting

1 quotient by 130.

2 Sec. 42.304. FINANCING: GENERAL RULE. (a) The sum of the
3 accreditation allotments under Subchapter B and the additional
4 allotments under Subchapters C, D, E, and F constitutes the tier one
5 allotments. The sum of the tier one allotments and the enrichment
6 program allotments under Subchapter G constitutes the total cost of
7 the Foundation School Program.

8 (b) The program shall be financed by:

9 (1) state funds appropriated for the purposes of
10 public school education;

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

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

16 (4) state available school funds distributed in
17 accordance with law.

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

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

1
$$\underline{LS = TR \times DPV}$$

2 where:

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

4 "TR" is the school district's adopted tax rate multiplied by
5 the ratio of the actual taxable value of the property in the
6 district for the current tax year divided by the taxable value of
7 property in the district for the preceding tax year as determined
8 under Subchapter M, Chapter 403, Government Code, provided that the
9 resulting rate may not exceed \$1.00 or a lesser rate for any school
10 year provided by appropriation; and

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

14 (b) The commissioner shall adjust the values reported in the
15 official report of the comptroller as required by Section 403.302,
16 Government Code, to reflect reductions in taxable value of property
17 resulting from natural or economic disaster after January 1 in the
18 year in which the valuations are determined. The decision of the
19 commissioner is final. An adjustment does not affect the local
20 share of any other school district.

21 (c) A school district with a tax rate ("TR") of \$1.00 or the
22 maximum tax rate otherwise permitted under Subsection (a) by
23 appropriation is eligible to receive the full amount of the tier one
24 allotment to which the district is entitled under this chapter.

25 (d) If a school district's tax rate ("TR") is less than
26 \$1.00 or the maximum tax rate otherwise permitted under Subsection
27 (a) by appropriation, the district's tier one allotment is adjusted

1 by a percentage determined by dividing the district's tax rate
2 ("TR") by \$1.00 or the maximum tax rate otherwise permitted under
3 Subsection (a) by appropriation and multiplying the resulting
4 quotient by 100. The commissioner shall determine the amount of the
5 tier one allotment to which a district is entitled under this
6 subsection. The commissioner's determination is final and may not
7 be appealed.

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

12 Sec. 42.307. ADJUSTMENT FOR RAPID DECLINE IN TAXABLE VALUE
13 OF PROPERTY. (a) For purposes of Chapter 46 and this chapter, and
14 to the extent money specifically authorized to be used under this
15 section is available, the commissioner shall adjust the taxable
16 value of property in a school district that, due to factors beyond
17 the control of the board of trustees, experiences a rapid decline in
18 the tax base used in computing taxable values in excess of four
19 percent of the tax base used in the preceding year.

20 (b) To the extent that a sufficient amount of money is not
21 available to fund all adjustments under this section, the
22 commissioner shall reduce adjustments in the manner provided by
23 Section 42.313(f) so that the total amount of adjustments equals
24 the amount of money available to fund the adjustments.

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

27 Sec. 42.308. ADJUSTMENT FOR OPTIONAL HOMESTEAD EXEMPTION.

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

5 (1) funds are specifically appropriated for purposes
6 of this section; or

7 (2) the commissioner determines that the total amount
8 of state funds appropriated for purposes of the Foundation School
9 Program for the school year exceeds the amount of state funds
10 distributed to school districts in accordance with Section 42.313
11 based on the taxable values of property in school districts
12 computed in accordance with Section 403.302(d), Government Code,
13 without any deduction for residence homestead exemptions granted
14 under Section 11.13(n), Tax Code.

15 (b) In making a determination under Subsection (a) (2), the
16 commissioner shall:

17 (1) notwithstanding Section 42.313(b), reduce the
18 entitlement under this chapter of a school district whose final
19 taxable value of property is higher than the estimate under Section
20 42.314 and make payments to school districts accordingly; and

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

25 (c) In the first year of a state fiscal biennium, before
26 providing funding as provided by Subsection (a) (2), the
27 commissioner shall ensure that sufficient appropriated funds for

1 purposes of the Foundation School Program are available for the
2 second year of the biennium, including funds to be used for purposes
3 of Section 42.307.

4 (d) If the commissioner determines that the amount of funds
5 available under Subsection (a) (1) or (2) does not at least equal the
6 total amount of state funding to which districts would be entitled
7 if state funding under this chapter were based on the taxable values
8 of property in school districts computed in accordance with Section
9 403.302(d) (2), Government Code, the commissioner may, to the extent
10 necessary, provide state funding based on a uniform lesser fraction
11 of the deduction under Section 403.302(d) (2), Government Code.

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

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

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

26 (c) The commissioner shall recover the benefit of any
27 adjustment made under this section by making offsetting adjustments

1 in the school district's taxable value of property for purposes of
2 this chapter or Chapter 46 on a final determination of the taxable
3 value of property that was the basis of the original adjustment, or
4 in the second school year following the year in which the adjustment
5 is made, whichever is earlier.

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

8 Sec. 42.309. ADJUSTED PROPERTY VALUE FOR DISTRICTS NOT
9 OFFERING ALL GRADE LEVELS. For purposes of this chapter, the
10 taxable value of property of a school district that contracts for
11 students residing in the district to be educated in another
12 district under Section 25.039(a) is adjusted by applying the
13 formula:

$$14 \quad \text{ADPV} = \text{DPV} - (\text{TN}/.01)$$

15 where:

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

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

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

24 Sec. 42.310. EFFECT OF APPRAISAL APPEAL. (a) If the final
25 determination of an appeal under Chapter 42, Tax Code, results in a
26 reduction in the taxable value of property that exceeds five
27 percent of the total taxable value of property in the school

1 district for the same tax year determined under Subchapter M,
2 Chapter 403, Government Code, the commissioner shall request the
3 comptroller to adjust its taxable property value findings for that
4 year consistent with the final determination of the appraisal
5 appeal.

6 (b) If the district would have received a greater amount
7 from the Texas education fund for the applicable school year using
8 the adjusted value, the commissioner shall add the difference to
9 subsequent distributions to the district from the Texas education
10 fund. An adjustment does not affect the local share of any other
11 district.

12 Sec. 42.311. ADDITIONAL TRANSITIONAL AID. (a)

13 Notwithstanding any other provision of this subtitle, and provided
14 that a school district imposes a tax at a minimum rate specified by
15 the commissioner, a school district is entitled to the amount of
16 state revenue necessary to maintain state and local revenue per
17 student in average daily attendance in the amount equal to:

18 (1) for the 2005-2006 school year, the sum of:

19 (A) the greater of:

20 (i) the amount of state and local revenue
21 per student in average daily attendance for the maintenance and
22 operation of the district to which the district was entitled for the
23 2004-2005 school year under Chapter 42, or, if the district was
24 subject to Chapter 41, the amount to which the district was entitled
25 under that chapter, including any amounts the district received
26 under Rider 82, page III-23, Chapter 1330, Acts of the 78th
27 Legislature, Regular Session, 2003 (the General Appropriations

1 Act), and any amounts the district received under an agreement
2 under Subchapter E, Chapter 41; or

3 (ii) the amount of state and local revenue
4 per student in average daily attendance for the maintenance and
5 operation of the district to which the district would have been
6 entitled for the 2005-2006 school year under Chapter 42, as that
7 chapter existed on January 1, 2005, or, if the district would have
8 been subject to Chapter 41, as that chapter existed on January 1,
9 2005, the amount to which the district would have been entitled
10 under that chapter, based on the funding elements in effect for the
11 2004-2005 school year and including any amounts described by Rider
12 82, page III-23, Chapter 1330, Acts of the 78th Legislature,
13 Regular Session, 2003 (the General Appropriations Act); and

14 (B) an amount equal to three percent of the
15 greater of the amounts described by Paragraph (A); and

16 (2) for the 2006-2007 or a subsequent school year, the
17 sum of:

18 (A) the greater of:

19 (i) the amount of state and local revenue
20 per student in average daily attendance for the maintenance and
21 operation of the district to which the district was entitled for the
22 2004-2005 school year under Chapter 42, or, if the district was
23 subject to Chapter 41, the amount to which the district was entitled
24 under that chapter, including any amounts the district received
25 under Rider 82, page III-23, Chapter 1330, Acts of the 78th
26 Legislature, Regular Session, 2003 (the General Appropriations
27 Act), and any amounts the district received under an agreement

1 under Subchapter E, Chapter 41; or
2 (ii) the amount of state and local revenue
3 per student in average daily attendance for the maintenance and
4 operation of the district to which the district would have been
5 entitled for the 2006-2007 school year under Chapter 42, as that
6 chapter existed on January 1, 2005, or, if the district would have
7 been subject to Chapter 41, as that chapter existed on January 1,
8 2005, the amount to which the district would have been entitled
9 under that chapter, based on the funding elements in effect for the
10 2004-2005 school year and including any amounts described by Rider
11 82, page III-23, Chapter 1330, Acts of the 78th Legislature,
12 Regular Session, 2003 (the General Appropriations Act); and
13 (B) an amount equal to three percent of the
14 greater of the amounts described by Paragraph (A).
15 (b) The amount of revenue to which a school district is
16 entitled because of the technology allotment under Section 32.005
17 or the instructional materials and technology allotment under
18 Section 42.241 is not included in making a determination under
19 Subsection (a).
20 (c) The commissioner shall determine the minimum tax rate
21 for a school district under Subsection (a) on the basis of the tax
22 rate adopted by the district for maintenance and operations for the
23 2004-2005 school year.
24 (d) The commissioner shall determine the amount of state
25 funds to which a school district is entitled under this section.
26 The commissioner's determination is final and may not be appealed.
27 (e) Any amount to which a school district is entitled under

1 Subchapter G is not included in determining the amount to which a
2 district is entitled under this section.

3 Sec. 42.3111. IMPLEMENTATION OF REVENUE MAINTENANCE
4 PROVISIONS FOR DISTRICTS UNDER COUNTYWIDE EQUALIZATION SYSTEM. (a)
5 This section applies only to a school district that receives local
6 property tax revenue from a countywide equalization tax imposed in
7 accordance with former Chapter 18 and authorized by Section 11.301.

8 (b) In implementing any provision of this chapter that
9 entitles a school district to maintain the amount of state and local
10 revenue per student in average daily attendance that would have
11 been available to the district using the funding elements under
12 Chapters 41 and 42 in effect during the 2004-2005 school year, the
13 commissioner shall consider the tax rate of each district receiving
14 revenue from a countywide equalization tax to be the sum of the
15 equalization tax rate and the rate imposed by the district.

16 Sec. 42.312. TEMPORARY LIMITATIONS ON AID. (a)
17 Notwithstanding any other provision of this subtitle, but subject
18 to Subsection (e), the commissioner shall withhold from a school
19 district the amount of state funds necessary to ensure that the
20 district does not receive an amount of state and local revenue per
21 student in average daily attendance that is greater than the
22 following percentage of the amount described by Section
23 42.311(a)(1)(A)(i):

- 24 (1) 108 percent for the 2005-2006 school year;
- 25 (2) 116 percent for the 2006-2007 school year; and
- 26 (3) 124 percent for the 2007-2008 school year.

27 (b) The commissioner shall determine the amount of state

1 funds required to be withheld under this section. The
2 commissioner's determination is final and may not be appealed.

3 (c) Any amount to which a school district is entitled under
4 Subchapter G is not included in determining the amount that a
5 district may receive under this section.

6 (d) Section 42.311(b) applies to any determinations made
7 under this section.

8 (e) If the amount to which a school district is entitled
9 under Section 42.311 exceeds the amount to which the district is
10 entitled under this section, the district is entitled to the
11 greater amount.

12 (f) This section expires September 1, 2008.

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

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

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

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

22 (4) the amount of the district's tier one local share
23 under Section 42.306; and

24 (5) the amount of each district's enrichment program
25 local revenue under Section 42.252.

26 (b) Except as provided by this subsection, the commissioner
27 shall base the determinations under Subsection (a) on the estimates

1 provided to the legislature under Section 42.314 for each school
2 district for each school year. The General Appropriations Act may
3 provide alternate estimates of tax rates or total taxable value of
4 property for each school district for each school year, in which
5 case those estimates shall be used in making the determinations
6 under Subsection (a). The commissioner shall reduce the
7 entitlement of each district that has a final taxable value of
8 property for the second year of a state fiscal biennium that is
9 higher than the estimate under Section 42.314 or the General
10 Appropriations Act, as applicable. A reduction under this
11 subsection may not reduce the district's entitlement below the
12 amount to which it is entitled at its actual taxable value of
13 property.

14 (c) Each school district is entitled to an amount equal to
15 the difference for that district between the sum of Subsections
16 (a) (1) and (a) (2) and the sum of Subsections (a) (3), (a) (4), and
17 (a) (5).

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

27 (e) If a school district demonstrates to the satisfaction of

1 the commissioner that the estimate of the district's tax rate,
2 student enrollment, or taxable value of property used in
3 determining the amount of state funds to which the district is
4 entitled are so inaccurate as to result in undue financial hardship
5 to the district, the commissioner may adjust funding to that
6 district in that school year to the extent that funds are available
7 for that year.

8 (f) If the total amount appropriated for a year is less than
9 the amount of money to which school districts are entitled for that
10 year, the commissioner shall reduce the total amount of funds
11 allocated to each district proportionately. The following fiscal
12 year, a district's entitlement under this section is increased by
13 an amount equal to the reduction made under this subsection.

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

23 (g-1) Not later than March 1 of each even-numbered year, the
24 commissioner shall identify each school district in which the
25 actual student enrollment for the current school year is at least
26 three percent higher or lower than the estimate of student
27 enrollment used to determine the amount of warrants issued to the

1 district for that year. Subject to available funding, the
2 commissioner shall adjust the district's entitlement for the next
3 fiscal year so that the district receives, during that year,
4 warrants in the amount to which the district would be entitled on
5 the basis of a student enrollment that is three percent higher or
6 lower, as applicable, than the estimate of student enrollment
7 otherwise used to determine the district's entitlement. To the
8 extent that money is available in the second year of a state fiscal
9 biennium for adjustments under Subsection (g) and this subsection,
10 the commissioner shall give priority to adjustments under this
11 subsection.

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

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

20 Sec. 42.3131. USE OF CERTAIN REVENUE FOR ENHANCED
21 COMPENSATION. (a) Beginning with the 2005-2006 school year, a
22 school district must use at least 50 percent of all state and local
23 maintenance and operations revenue in excess of the level expended
24 in the 2004-2005 school year for the purpose of providing enhanced
25 compensation to classroom teachers, full-time librarians,
26 full-time counselors certified under Subchapter B, Chapter 21, and
27 full-time school nurses.

1 (b) The commissioner shall adopt rules necessary to
2 implement this section. The rules must ensure salaries provided to
3 individuals listed in Subsection (a) are increased by the lesser
4 of:

5 (1) \$3,000 per year; or

6 (2) the amount that can be provided using 44 percent of
7 the increase in the district's maintenance and operations revenue
8 from the 2004-2005 school year.

9 (c) A school district that paid employees an additional
10 amount during each of the 2003-2004 and 2004-2005 school years to
11 compensate for reductions made in the health coverage or
12 compensation supplementation provided by former Article 3.50-8,
13 Insurance Code, may apply to the commissioner for authority to
14 provide a lesser amount of enhanced compensation than the amount
15 otherwise required by this section, to the extent equitable
16 considering the additional compensation provided by the district
17 during the 2003-2004 and 2004-2005 school years.

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

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

23 (2) the comptroller shall submit to the legislature an
24 estimate of the total taxable value of all property in the state as
25 determined under Subchapter M, Chapter 403, Government Code, for
26 the following biennium.

27 (b) The agency and the comptroller shall update the

1 information provided to the legislature under Subsection (a) not
2 later than March 1 of each odd-numbered year.

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

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

22 Sec. 42.316. PAYMENTS FROM TEXAS EDUCATION FUND. (a) In
23 this section:

24 (1) "Category 1 school district" means a school
25 district having a wealth per student of less than one-half of the
26 statewide average wealth per student.

27 (2) "Category 2 school district" means a school

1 district having a wealth per student of at least one-half of the
2 statewide average wealth per student but not more than the
3 statewide average wealth per student.

4 (3) "Category 3 school district" means a school
5 district having a wealth per student of more than the statewide
6 average wealth per student.

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

11 (b) Payments from the Texas education fund to each category
12 1 school district shall be made as follows:

13 (1) 15 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 September of a fiscal year;

16 (2) 80 percent of the yearly entitlement of the
17 district shall be paid in eight equal installments to be made on or
18 before the 25th day of October, November, December, January, March,
19 May, June, and July; and

20 (3) five percent of the yearly entitlement of the
21 district shall be paid in an installment to be made on or before the
22 25th day of February.

23 (c) Payments from the Texas education fund to each category
24 2 school district shall be made as follows:

25 (1) 22 percent of the yearly entitlement of the
26 district shall be paid in an installment to be made on or before the
27 25th day of September of a fiscal year;

1 (2) 18 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 October;

4 (3) 9.5 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 November;

7 (4) 7.5 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 April;

10 (5) five 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 May;

13 (6) 10 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 June;

16 (7) 13 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 July; and

19 (8) 15 percent of the yearly entitlement of the
20 district shall be paid in an installment to be made after the fifth
21 day of September and not later than the 10th day of September of the
22 calendar year following the calendar year of the payment made under
23 Subdivision (1).

24 (d) Payments from the Texas education fund to each category
25 3 school district shall be made as follows:

26 (1) 45 percent of the yearly entitlement of the
27 district shall be paid in an installment to be made on or before the

1 25th day of September of a fiscal year;

2 (2) 35 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 October; and

5 (3) 20 percent of the yearly entitlement of the
6 district shall be paid in an installment to be made after the fifth
7 day of September and not later than the 10th day of September of the
8 calendar year following the calendar year of the payment made under
9 Subdivision (1).

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

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

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

26 (b) If a district fails to comply with a request for a refund
27 under Subsection (a), the agency shall certify to the comptroller

1 that the amount constitutes a debt for purposes of Section 403.055,
2 Government Code. The agency shall provide to the comptroller the
3 amount of the overallocation and any other information required by
4 the comptroller. The comptroller may certify the amount of the debt
5 to the attorney general for collection.

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

8 (Sections 42.318-42.400 reserved for expansion)

9 SUBCHAPTER I. ADDITIONAL EQUALIZATION

10 Sec. 42.401. DISTRICTS SUBJECT TO ADDITIONAL EQUALIZATION.

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

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

19 (Sections 42.402-42.500 reserved for expansion)

20 SUBCHAPTER J. EDUCATOR EXCELLENCE INCENTIVE PROGRAM

21 Sec. 42.501. EDUCATOR EXCELLENCE INCENTIVE PROGRAM. (a)

22 The commissioner shall establish an educator excellence incentive
23 program under which school districts, in accordance with locally
24 developed plans approved by the commissioner, provide incentive
25 payments to employees who demonstrate superior success in adding
26 value to student achievement.

27 (b) Each year a school district shall use an amount equal to

1 at least one percent of the district's total state and local
2 expenditures for maintenance and operations to provide incentive
3 payments to employees in accordance with this subchapter.

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

5 (1) encourage classroom teachers to:

6 (A) teach at campuses with high percentages of
7 educationally disadvantaged students; or

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

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

13 (d) The commissioner shall adopt rules necessary to
14 implement this subchapter. In adopting rules, the commissioner
15 shall encourage local flexibility in designing incentive plans that
16 promote student achievement.

17 Sec. 42.502. MINIMUM CRITERIA FOR LOCAL INCENTIVE PLANS.

18 (a) A school district shall develop a local incentive plan for
19 rewarding academic improvement and achievement in the district and
20 submit the plan to the commissioner for approval.

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

24 (c) A local incentive plan must provide for incentive
25 payments to classroom teachers and may provide for incentive
26 payments to other employees.

27 (d) The primary criteria for making incentive payments to

1 employees under a local incentive plan must be based on objective
2 measures of student achievement, and the plan must provide for
3 incentive payments to be awarded on the basis of high achievement,
4 incremental growth in achievement, or both. A local incentive plan
5 may also consider other indicators of employee performance, such as
6 teacher evaluations conducted by principals or parents.

7 (e) A local incentive plan must be developed through a
8 process that considers comments of classroom teachers in the
9 district.

10 Sec. 42.503. EMPLOYMENT CONTRACTS. (a) A school district
11 shall provide in employment contracts that qualifying employees may
12 receive an incentive payment under the local incentive plan.

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

16 Sec. 42.504. DECISION BY BOARD OF TRUSTEES. A decision by
17 the board of trustees or the board's designee in providing an
18 incentive payment under a local incentive plan approved under this
19 subchapter is final and may not be appealed.

20 SECTION 1A.02. The heading to Chapter 41, Education Code,
21 is amended to read as follows:

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

23 SECTION 1A.03. Section 41.004, Education Code, is amended
24 to read as follows:

25 Sec. 41.004. ANNUAL REVIEW OF EQUALIZATION [~~PROPERTY~~
26 ~~WEALTH~~]. (a) Not later than July 15 of each year, using the
27 estimate of enrollment under Section 42.314 [~~42.254~~], the

1 commissioner shall review the local share and tier one allotment
2 ~~[wealth per student]~~ of each school district ~~[districts]~~ in the
3 state and shall notify:

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

7 (2) ~~[each district to which the commissioner proposes~~
8 ~~to annex property detached from a district notified under~~
9 ~~Subdivision (1), if necessary, under Subchapter G; and]~~

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

13 (b) If, before the dates provided by this subsection, a
14 district notified under Subsection (a) (1) has not purchased average
15 daily attendance credit as provided by Subchapter D ~~[successfully~~
16 ~~exercised one or more options under Section 41.003 that reduce the~~
17 ~~district's wealth per student to a level equal to or less than the~~
18 ~~equalized wealth level]~~, the commissioner ~~[shall order the~~
19 ~~detachment of property from that district as provided by Subchapter~~
20 ~~G. If that detachment will not reduce the district's wealth per~~
21 ~~student to a level equal to or less than the equalized wealth level,~~
22 ~~the commissioner may not detach property under Subchapter G but]~~
23 shall order the consolidation of the district with one or more other
24 districts as provided by Subchapter H. ~~[An agreement under Section~~
25 ~~41.003(1) or (2) must be executed not later than September 1~~
26 ~~immediately following the notice under Subsection (a).]~~ An
27 election to authorize the purchase of average daily attendance

1 credit as provided by Subchapter D [~~for an option under Section~~
2 ~~41.003(3), (4), or (5)~~] must be ordered before September 1
3 immediately following the notice under Subsection (a).

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

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

11 (1) is effective for Foundation School Program funding
12 purposes for the school year that begins in the calendar year in
13 which the [~~detachment and annexation or~~] consolidation is [~~agreed~~
14 ~~to or~~] ordered; and

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

18 SECTION 1A.04. Section 41.006(a), Education Code, is
19 amended to read as follows:

20 (a) The commissioner may adopt rules necessary for the
21 implementation of this chapter. The rules may provide for the
22 commissioner to make necessary adjustments to the provisions of
23 Chapter 42, including providing for the commissioner to make an
24 adjustment in the funding element established by Section 42.252
25 [~~42.302~~], at the earliest date practicable, to the amount the
26 commissioner believes, taking into consideration options exercised
27 by school districts under Section 42.401 [~~this chapter~~] and

1 estimates of student enrollments, will match appropriation levels.

2 SECTION 1A.05. Section 41.008(a), Education Code, is
3 amended to read as follows:

4 (a) The governing board of a school district that results
5 from consolidation under this chapter [~~, including a consolidated~~
6 ~~taxing district under Subchapter F,~~] for the tax year in which the
7 consolidation occurs may determine whether to adopt a homestead
8 exemption provided by Section 11.13, Tax Code, and may set the
9 amount of the exemption, if adopted, at any time before the school
10 district adopts a tax rate for that tax year. This section applies
11 only to an exemption that the governing board of a school district
12 is authorized to adopt or change in amount under Section 11.13, Tax
13 Code.

14 SECTION 1A.06. Section 41.009(a), Education Code, is
15 amended to read as follows:

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

21 SECTION 1A.07. Section 41.010, Education Code, is amended
22 to read as follows:

23 Sec. 41.010. TAX INCREMENT OBLIGATIONS. The payment of tax
24 increments under Chapter 311, Tax Code, is not affected by the
25 consolidation of territory [~~or tax bases or by annexation~~] under
26 this chapter. In each tax year a school district paying a tax
27 increment from taxes on property over which the district has

1 assumed taxing power is entitled to retain the same percentage of
2 the tax increment from that property that the district in which the
3 property was located before the consolidation [~~or annexation~~] could
4 have retained for the respective tax year.

5 SECTION 1A.08. Section 41.013(a), Education Code, is
6 amended to read as follows:

7 (a) A [~~Except as provided by Subchapter C, a~~] decision of
8 the commissioner under this chapter is appealable under Section
9 7.057.

10 SECTION 1A.09. Section 41.091, Education Code, is amended
11 to read as follows:

12 Sec. 41.091. AGREEMENT. (a) A school district subject to
13 Section 42.401 [~~with a wealth per student that exceeds the~~
14 ~~equalized wealth level~~] may execute an agreement with the
15 commissioner to purchase attendance credits in an amount equal to
16 the lesser of the difference between the district's local share
17 under Section 42.306 and the district's tier one allotment under
18 Section 42.304 or the amount equal to 35 percent of the district's
19 total maintenance and operations tax revenue [~~sufficient, in~~
20 ~~combination with any other actions taken under this chapter, to~~
21 ~~reduce the district's wealth per student to a level that is equal to~~
22 ~~or less than the equalized wealth level~~].

23 (b) Notwithstanding Subsection (a), for the 2005-2006,
24 2006-2007, and 2007-2008 school years, the amount of attendance
25 credits required to be purchased is equal to the greater of:

- 26 (1) the amount required under Subsection (a); or
27 (2) the amount equal to the percentage of the

1 district's total maintenance and operations tax revenue that
2 permits the district to retain the maximum revenue allowed under
3 Section 42.312 for the applicable school year.

4 (c) Subsection (b) and this subsection expire September 1,
5 2008.

6 SECTION 1A.10. Section 41.093(a), Education Code, is
7 amended to read as follows:

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

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

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

18 SECTION 1A.11. Section 41.251, Education Code, is amended
19 to read as follows:

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

26 SECTION 1A.12. Section 41.252, Education Code, is amended
27 by amending Subsections (a) and (c) and adding Subsection (d) to

1 read as follows:

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

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

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

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

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

25 (5) fifth, to the district that has the lowest local
26 share percentage [~~wealth per student~~] and is located in the same
27 regional education service center area; and

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

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

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

15 SECTION 1A.13. Section 41.257, Education Code, is amended
16 to read as follows:

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

24 SECTION 1A.14. Section 44.004, Education Code, is amended
25 by adding Subsection (c-1) to read as follows:

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

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

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

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

11 SECTION 1A.15. Section 45.003, Education Code, is amended
12 by amending Subsection (d) and adding Subsection (e) to read as
13 follows:

14 (d) A proposition submitted to authorize the levy of
15 maintenance taxes must include the question of whether the
16 governing board or commissioners court may levy, assess, and
17 collect annual ad valorem taxes for the further maintenance of
18 public schools, at a rate not to exceed the rate stated in the
19 proposition, which may be not more than the sum of \$1.00 [~~\$1.50~~] on
20 the \$100 valuation of taxable property in the district and \$0.15 on
21 the \$100 valuation of taxable property in the district for
22 enrichment [~~, stated in the proposition~~].

23 (e) Notwithstanding Subsection (a), a district may not
24 adopt a tax rate for the maintenance and operations of the district
25 that exceeds the sum of the maximum rates for purposes of Sections
26 42.253 and 42.306(a) unless that rate is approved by two-thirds of
27 the qualified voters voting in an election held for that purpose.

1 This subsection does not authorize the adoption of a tax rate for
2 the maintenance and operations of the district that exceeds the
3 maximum rate prescribed by Subsection (d). This subsection expires
4 January 1, 2009.

5 SECTION 1A.16. The heading to Section 26.08, Tax Code, is
6 amended to read as follows:

7 Sec. 26.08. SCHOOL DISTRICT TAXES AND ELECTIONS [ELECTION]
8 TO AUTHORIZE OR RATIFY SCHOOL TAXES.

9 SECTION 1A.17. Section 26.08, Tax Code, is amended by
10 amending Subsections (a), (b), (c), (e), (h), (i), and (j) and
11 adding Subsections (a-1)-(a-5) and (b-1) to read as follows:

12 (a) Except as provided by Subsection (b), a school district
13 must obtain voter authorization in an election each time the
14 district adopts a tax rate for the maintenance and operations of the
15 district that exceeds the rate levied by the district in the
16 preceding tax year.

17 (a-1) Except as provided by Subsection (a-2), (a-3), or
18 (a-4), for the 2005 tax year, a school district may not impose a tax
19 for the maintenance and operations of the district that exceeds the
20 greater of:

21 (1) the rate equal to 66 percent of the rate adopted by
22 the district for maintenance and operations for the 2004 tax year;
23 or

24 (2) the rate necessary to ensure that the district
25 receives the amount of revenue to which the district is entitled
26 under Section 42.311, Education Code, provided that the rate may
27 not exceed \$1.00 on the \$100 valuation of taxable property.

1 (a-2) For the 2005 tax year, a school district may, without
2 holding an additional election, impose a tax for the maintenance
3 and operations of the district at a rate that does not exceed the
4 lesser of \$1.00 or the sum of the rate authorized by Subsection
5 (a-1) and the rate of \$0.04 per \$100 valuation of taxable value,
6 provided that the rate imposed was previously authorized by voters
7 in an election held for that purpose. A school district may impose
8 a greater rate if the greater rate is approved by the voters in an
9 election held after the effective date of H.B. No. 2, Acts of the
10 79th Legislature, Regular Session, 2005.

11 (a-3) For the 2005 tax year, a school district permitted by
12 Subsection (a-1) to impose a tax for the maintenance and operations
13 of the district at the rate of \$1.00 on the \$100 valuation of
14 taxable property may impose a tax for the maintenance and
15 operations of the district at a higher rate if approved by the
16 voters in an election held after the effective date of H.B. No. 2,
17 Acts of the 79th Legislature, Regular Session, 2005.

18 (a-4) Notwithstanding any other provision of law, a school
19 district permitted by special law on January 1, 2005, to impose an
20 ad valorem tax for maintenance and operations at a rate greater than
21 \$1.50 on the \$100 valuation of taxable property in the district may:

22 (1) continue to impose a tax for the maintenance and
23 operations of the district at a rate not to exceed the rate that is
24 \$0.50 less than the rate adopted by the district for maintenance and
25 operations for the 2004 tax year, provided that, notwithstanding
26 any other provision of law, the tax authorized by this subdivision
27 may not be considered an enrichment tax rate for purposes of

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

8 (a-5) Subsections (a-1), (a-2), and (a-3) and this
9 subsection expire January 1, 2006.

10 (b) If the governing body of a school district with a
11 maintenance and operations tax rate of less than \$1.00 on the \$100
12 valuation of property adopts a tax rate that exceeds the district's
13 rollback tax rate, the registered voters of the district at an
14 election held for that purpose must determine whether to approve
15 the adopted tax rate. When increased expenditure of money by a
16 school district is necessary to respond to a disaster, including a
17 tornado, hurricane, flood, or other calamity, but not including a
18 drought, that has impacted a school district and the governor has
19 requested federal disaster assistance for the area in which the
20 school district is located, an election is not required under this
21 section to approve the tax rate adopted by the governing body for
22 the year following the year in which the disaster occurs.

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

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

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

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

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

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

26 (1) the tax rate that, applied to the current total
27 value for the district, would impose taxes in an amount that, when

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

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

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

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

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

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

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

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

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

9 SECTION 1A.19. Section 311.013, Tax Code, is amended by
10 adding Subsection (1) to read as follows:

11 (1) This subsection applies only to a reinvestment zone
12 created before January 1, 2005, for which a school district entered
13 into an agreement before that date to pay a portion of the tax
14 increment produced by the school district into the tax increment
15 fund established for the zone. In addition to the amount the school
16 district is otherwise required to pay into the tax increment fund
17 each year, the comptroller shall pay into the fund from any
18 available source an additional amount. The additional amount is
19 the amount by which the amount the district would have been required
20 to pay into the fund for the current year under the agreement if the
21 district levied taxes at the district's 2004 tax rate exceeds the
22 amount the district is otherwise required to pay into the fund for
23 the current year. This subsection ceases to apply to the
24 reinvestment zone on the later of the dates specified by Sections
25 311.017(a) (1) and (2) for the reinvestment zone.

26 PART B. SCHOOL DISTRICT EFFICIENCY

27 SECTION 1B.01. Subchapter A, Chapter 11, Education Code, is

1 amended by adding Section 11.003 to read as follows:

2 Sec. 11.003. ADMINISTRATIVE EFFICIENCY. (a) The
3 commissioner shall develop and implement a program allowing a
4 school district board of trustees to enter into an agreement with
5 another district or with another governmental entity in this state
6 for a cooperative arrangement regarding administrative or other
7 services, including transportation, food service, purchasing, and
8 payroll functions. The program may include reasonable incentives
9 to encourage districts to enter into an agreement, as determined by
10 the commissioner.

11 (b) An agreement under this section must contain an
12 explanation of how the consolidation would allow the participating
13 school districts and governmental entities to reduce costs, operate
14 more efficiently, and improve educational quality.

15 (c) A school district that enters into an agreement for a
16 cooperative arrangement described by Subsection (a) is entitled to
17 keep any money the district saves as a result of reduced costs or
18 increased efficiencies under the arrangement.

19 (d) The commissioner shall develop and implement the
20 program described by this section not later than January 1, 2006.
21 This subsection expires March 1, 2006.

22 SECTION 1B.02. Subchapter H, Chapter 45, Education Code, is
23 amended by adding Section 45.233 to read as follows:

24 Sec. 45.233. REVIEW OF TAX COLLECTIONS. The comptroller
25 shall periodically examine the effectiveness of school districts in
26 collecting district taxes.

27 PART C. SOCIAL SECURITY CONTRIBUTIONS

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

3 Sec. 606.0261. PAYMENT OF SCHOOL DISTRICT CONTRIBUTIONS.

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

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

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

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

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

19 SECTION 1C.02. This part takes effect September 1, 2005.

20 ARTICLE 2. EDUCATION EXCELLENCE

21 PART A. EDUCATOR QUALITY

22 SECTION 2A.01. Section 21.045(a), Education Code, is
23 amended to read as follows:

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

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

3 (2) performance based on the appraisal system for
4 beginning teachers adopted by the board; and

5 (3) the growth in student achievement resulting from
6 teaching by graduates of individual educator preparation programs.

7 SECTION 2A.02. Subchapter B, Chapter 21, Education Code, is
8 amended by adding Section 21.0461 to read as follows:

9 Sec. 21.0461. TEMPORARY CERTIFICATE FOR SUPERINTENDENT OR
10 PRINCIPAL. (a) The board may issue a temporary certificate under
11 this section for:

12 (1) assistant principal;

13 (2) principal; or

14 (3) superintendent.

15 (b) A candidate for certification under this section must:

16 (1) hold a baccalaureate or advanced degree from an
17 institution of higher education;

18 (2) have significant management and leadership
19 experience, as determined by the board of trustees of the school
20 district that will employ the person under the temporary
21 certificate; and

22 (3) perform satisfactorily on the appropriate
23 examination prescribed under Section 21.048.

24 (c) A school district may require that a person who is
25 employed by the district and who holds a certificate issued under
26 this section complete a training program.

27 (d) A certificate issued to a person under this section is

1 valid only in the school district in which the person is initially
2 employed after receiving the certificate.

3 (e) A certificate issued under this section:

4 (1) expires on the third anniversary of the date on
5 which the certificate was issued; and

6 (2) is not renewable.

7 (f) The board shall issue a standard certificate to a person
8 who holds a temporary certificate issued under this section if the
9 school district employing the person under the temporary
10 certificate:

11 (1) has employed the person for at least three years in
12 the capacity for which the person seeks a standard certificate; and

13 (2) has recommended the person to the board and
14 favorably reviewed, primarily using objective measures of student
15 performance and improvement in the district, the person's
16 performance.

17 (g) A school district employing a person who holds a
18 temporary certificate issued under this section must provide the
19 person with intensive support during the person's first year of
20 employment with the district, including:

21 (1) mentoring; and

22 (2) intensive, high-quality professional development.

23 SECTION 2A.03. Section 21.054, Education Code, is amended
24 by amending Subsection (b) and adding Subsections (c) and (d) to
25 read as follows:

26 (b) Continuing education for principals must be based on an
27 individual assessment of the knowledge, skills, and proficiencies

1 necessary to perform successfully as a principal, as identified in
2 Section 21.046. An individualized professional growth plan shall
3 be developed as a result of the assessment and shall be used
4 exclusively for professional growth purposes. The assessment
5 results and the growth plan may only be released with the approval
6 of the principal assessed. Except as provided by Section 21.059,
7 each [~~Each~~] certified principal shall participate in the assessment
8 process and professional growth activities at least once every five
9 years.

10 (c) As part of compliance with continuing education
11 requirements under this section, a principal or superintendent must
12 attend advanced management training courses or programs as
13 prescribed by board rule.

14 (d) The board, in consultation with business schools,
15 departments, or programs at institutions of higher education, shall
16 propose rules to govern the approval and accountability of advanced
17 management training courses or programs required under this
18 section. In proposing a rule under this section, the board shall
19 require that a person conducting a course or program have
20 recognized expertise in business management.

21 SECTION 2A.04. Subchapter B, Chapter 21, Education Code, is
22 amended by adding Section 21.059 to read as follows:

23 Sec. 21.059. EXTENSION OF CERTAIN DEADLINES FOR ACTIVE DUTY
24 MILITARY PERSONNEL. A person who holds a certificate or permit
25 under this subchapter who is a member of the state military forces
26 or a reserve component of the armed forces of the United States and
27 who is ordered to active duty by proper authority is entitled to an

1 additional amount of time, equal to the total number of years or
2 parts of years that the educator serves on active duty, to complete:

- 3 (1) any continuing education requirements; and
4 (2) any requirements relating to renewal or extension
5 of the person's certificate or permit.

6 SECTION 2A.05. Section 21.402, Education Code, is amended
7 by amending Subsections (a), (c), and (d) and adding Subsections
8 (c-1) and (c-2) to read as follows:

9 (a) Except as provided by Subsection (d) [~~,(e),~~] or (f), a
10 school district must pay each classroom teacher, full-time
11 librarian, full-time counselor certified under Subchapter B, or
12 full-time school nurse not less than the minimum monthly salary,
13 based on the employee's level of experience, prescribed by
14 Subsection (c) [~~determined by the following formula:~~]

$$15 \quad \quad \quad [\del{MS = SF \times FS}]$$

16 ~~where:~~

17 ~~["MS" is the minimum monthly salary;]~~

18 ~~["SF" is the applicable salary factor specified by Subsection~~
19 ~~(c); and]~~

20 ~~["FS" is the amount, as determined by the commissioner under~~
21 ~~Subsection (b), of state and local funds per weighted student~~
22 ~~available to a district eligible to receive state assistance under~~
23 ~~Section 42.302 with an enrichment tax rate, as defined by Section~~
24 ~~42.302, equal to the maximum rate authorized under Section 42.303,~~
25 ~~except that the amount of state and local funds per weighted student~~
26 ~~does not include the amount attributable to the increase in the~~
27 ~~guaranteed level made by H.B. No. 3343, Acts of the 77th~~

1 ~~Legislature, Regular Session, 2001]~~.

2 (c) The minimum monthly salary under this section is

3 [~~factors per step are~~] as follows:

4	Years Experience	0	1	2
5	<u>Monthly</u> Salary	<u>\$2,524</u> [-.5656]	<u>\$2,581</u> [-.5790]	<u>\$2,639</u> [-.5924]
6	Factor]			
7	Years Experience	3	4	5
8	<u>Monthly</u> Salary	<u>\$2,696</u> [-.6058]	<u>\$2,817</u> [-.6340]	<u>\$2,938</u> [-.6623]
9	Factor]			
10	Years Experience	6	7	8
11	<u>Monthly</u> Salary	<u>\$3,059</u> [-.6906]	<u>\$3,172</u> [-.7168]	<u>\$3,278</u> [-.7416]
12	Factor]			
13	Years Experience	9	10	11
14	<u>Monthly</u> Salary	<u>\$3,379</u> [-.7651]	<u>\$3,473</u> [-.7872]	<u>\$3,564</u> [-.8082]
15	Factor]			
16	Years Experience	12	13	14
17	<u>Monthly</u> Salary	<u>\$3,649</u> [-.8281]	<u>\$3,728</u> [-.8467]	<u>\$3,805</u> [-.8645]
18	Factor]			
19	Years Experience	15	16	17
20	<u>Monthly</u> Salary	<u>\$3,876</u> [-.8811]	<u>\$3,944</u> [-.8970]	<u>\$4,008</u> [-.9119]
21	Factor]			
22	Years Experience	18	19	20 and over
23	<u>Monthly</u> Salary	<u>\$4,068</u> [-.9260]	<u>\$4,126</u> [-.9394]	<u>\$4,180</u> [-.9520]
24	Factor]			

25 (c-1) Notwithstanding Subsection (a), for the 2005-2006
26 school year, a classroom teacher, full-time librarian, full-time
27 counselor certified under Subchapter B, or full-time school nurse

1 is entitled to a monthly salary that is at least equal to the sum of:

2 (1) the monthly salary the employee would have
3 received for the 2005-2006 school year under the district's salary
4 schedule for the 2004-2005 school year, if that schedule had been in
5 effect for the 2005-2006 school year, including any local
6 supplement and any money representing a career ladder supplement
7 the employee would have received in the 2005-2006 school year; and

8 (2) \$100.

9 (c-2) Subsection (c-1) and this subsection expire September
10 1, 2006.

11 (d) A classroom teacher, full-time librarian, full-time
12 counselor certified under Subchapter B, or full-time school nurse
13 employed by a school district in the 2005-2006 [~~2000-2001~~] school
14 year is, as long as the employee is employed by the same district,
15 entitled to a salary that is at least equal to the salary the
16 employee received for the 2005-2006 [~~2000-2001~~] school year.

17 SECTION 2A.06. Subchapter I, Chapter 21, Education Code, is
18 amended by adding Section 21.4021 to read as follows:

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

25 (b) In determining a teacher's compensation, a school
26 district may and should consider:

27 (1) the teacher's ability to improve the academic

1 achievement of the teacher's students;
2 (2) the grade level or subject the teacher is assigned
3 to teach;
4 (3) skills required beyond basic teaching skills; and
5 (4) the assignment of the teacher, including whether
6 the teacher is assigned to a subject or school that is difficult to
7 staff.

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

11 SECTION 2A.07. Subchapter J, Chapter 21, Education Code, is
12 amended by adding Section 21.4571 to read as follows:

13 Sec. 21.4571. TRAINING FOR TEACHERS TEACHING OUT OF
14 CERTIFIED AREA. The commissioner shall develop and make available
15 materials and other teacher training resources to assist teachers
16 in becoming certified in the areas in which they teach. Such
17 materials and resources shall emphasize core teaching competencies
18 in the foundation curriculum established by Subchapter A, Chapter
19 28, and include resources that assist teachers and school
20 administrators in the disaggregation of student performance data.

21 SECTION 2A.08. Subchapter J, Chapter 21, Education Code, is
22 amended by adding Section 21.458 to read as follows:

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

26 (1) teaches in the same school;
27 (2) to the extent practicable, teaches the same

1 subject or grade level, as applicable; and

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

4 (b) The commissioner shall adopt rules necessary to
5 administer this section, including rules concerning the duties and
6 qualifications of a teacher who serves as a mentor. The rules
7 concerning qualifications must require that to serve as a mentor a
8 teacher must:

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

11 (2) complete at least one day of induction provided by
12 the district; and

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

16 (c) The commissioner shall develop proposed rules under
17 Subsection (b) by negotiated rulemaking as provided by Chapter
18 2008, Government Code.

19 (d) From the funds appropriated to the agency for purposes
20 of this section, the commissioner shall adopt rules and fund
21 mentoring support through providers of mentor training. In
22 adopting rules under this subsection, the commissioner shall rely
23 on research-based mentoring programs that, through external
24 evaluation, have demonstrated success.

25 SECTION 2A.09. Subchapter B, Chapter 22, Education Code, is
26 amended by adding Section 22.056 to read as follows:

27 Sec. 22.056. PROFESSIONAL LIABILITY INSURANCE FOR

1 CLASSROOM TEACHERS. (a) Using funds appropriated for the purpose
2 or otherwise available to the commissioner for the purpose, the
3 commissioner shall make available to each classroom teacher, at no
4 cost to the teacher, professional liability insurance to provide
5 the costs of defense and indemnification protection from claims for
6 damages arising out of any act or omission that is incident to or
7 within the scope of the duties of the teacher's position of
8 employment.

9 (b) The commissioner shall obtain the insurance required to
10 be made available by this section:

11 (1) in an amount determined appropriate by the
12 commissioner; and

13 (2) from one or more insurers authorized to engage in
14 the business of insurance in this state.

15 (c) The insurance required to be made available by this
16 section is in addition to the liability insurance provided by the
17 employing school district under a general liability policy.

18 (d) The commissioner may adopt rules necessary to implement
19 this section.

20 SECTION 2A.10. Section 21.054, Education Code, as amended
21 by this Act, applies beginning with the 2006-2007 school year.

22 SECTION 2A.11. Section 21.059, Education Code, as added by
23 this Act, applies to a person who holds a certificate or permit
24 under Subchapter B, Chapter 21, Education Code, and is a member of
25 the state military forces or a reserve component of the armed forces
26 of the United States and who is ordered to report for active duty
27 beginning on or after September 1, 2004.

1 PART B. STATE GOVERNANCE

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

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

7 (b) The commissioner of education and the commissioner of
8 higher education, in consultation with the State Board for Educator
9 Certification, may establish not more than three centers for
10 education research for conducting research for the benefit of
11 education in this state, including research regarding the impact of
12 federal education programs.

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

14 (1) the Texas Education Agency;

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

16 (3) a public junior college, public senior college or
17 university, or public state college, as those terms are defined by
18 Section 61.003.

19 (d) A center may be operated under a memorandum of
20 understanding between the commissioner of education, the
21 commissioner of higher education, and the governing board of an
22 educational institution described by Subsection (c) (3). The
23 memorandum of understanding must require the commissioner of
24 education, or a person designated by the commissioner, and the
25 commissioner of higher education, or a person designated by the
26 commissioner, to provide direct, joint supervision of the center
27 under this section.

1 (e) In conducting research under this section, a center:

2 (1) may use data on student performance, including
3 data that is confidential under the Family Educational Rights and
4 Privacy Act of 1974 (20 U.S.C. Section 1232g), the center has
5 collected from the Texas Education Agency, the Texas Higher
6 Education Coordinating Board, the State Board for Educator
7 Certification, any public or private institution of higher
8 education, and any school district; and

9 (2) shall comply with rules adopted by the
10 commissioner of education and the commissioner of higher education
11 to protect the confidentiality of student information, including
12 rules establishing procedures to ensure that confidential student
13 information is not duplicated or removed from a center in an
14 unauthorized manner.

15 (f) The commissioner of education and the commissioner of
16 higher education may:

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

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

21 (g) This section does not authorize the disclosure of
22 student information that may not be disclosed under the Family
23 Educational Rights and Privacy Act of 1974 (20 U.S.C. Section
24 1232g).

25 (h) The commissioner of education and the commissioner of
26 higher education shall adopt rules as necessary to implement this
27 section.

1 SECTION 2B.02. Section 37.008, Education Code, is amended
2 by adding Subsection (n) to read as follows:

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

8 SECTION 2B.03. Subchapter A, Chapter 7, Education Code, is
9 amended by adding Sections 7.007-7.009 to read as follows:

10 Sec. 7.007. PUBLIC EDUCATION INFORMATION MANAGEMENT SYSTEM
11 (PEIMS). (a) Each school district shall participate in the Public
12 Education Information Management System (PEIMS) and shall provide
13 through that system information required for the administration of
14 this code.

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

18 (c) Annually, the commissioner shall review the Public
19 Education Information Management System and shall repeal or amend
20 rules that require school districts to provide information through
21 the system that is not necessary. In reviewing and revising the
22 system, the commissioner shall develop rules to ensure that the
23 system:

24 (1) provides useful, accurate, and timely information
25 on student demographics and academic performance, personnel, and
26 school district finances;

27 (2) contains only the data necessary for the

1 legislature and the agency to perform their legally authorized
2 functions in overseeing the public education system; and

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

5 (d) The commissioner's rules must ensure that the Public
6 Education Information Management System links student performance
7 data to other related information for purposes of efficient and
8 effective allocation of school resources.

9 Sec. 7.008. STATEWIDE STUDENT ENROLLMENT, ATTENDANCE, AND
10 ACHIEVEMENT TRACKING SYSTEM. (a) Each school district shall
11 participate in a system meeting standards approved by the
12 commissioner to track each student enrolled in a public school in
13 this state. A student tracking system must:

14 (1) produce detailed reports for agency officials and
15 policy-makers and update information as applicable on each
16 student's:

17 (A) enrollment;

18 (B) attendance;

19 (C) achievement, including course or grade
20 completion and assessment instrument results;

21 (D) receipt of special education services,
22 including placement in a special education program and the
23 individualized education program developed;

24 (E) individual graduation plans; and

25 (F) specific reason for leaving a school or
26 school district, such as transferring, graduating, or dropping out
27 of school; and

1 (2) to facilitate the electronic transfer of student
2 records and the evaluation and improvement of educational programs
3 in the state, permit an authorized state or district official to
4 electronically retrieve information about a particular student as
5 necessary.

6 (b) Each school district shall use the student tracking
7 system.

8 (c) The commissioner may solicit and accept grant funds to
9 maintain the student tracking system and to make the system
10 available to school districts.

11 Sec. 7.009. CONTRACT FOR STUDENT TRACKING SYSTEM;
12 CONFIDENTIALITY OF STUDENT INFORMATION. (a) To assist school
13 districts in complying with Section 7.008, the agency may contract
14 with a public or private entity that develops tracking systems or
15 electronic transfer systems. The third-party contractor may
16 produce software or other electronic tools or host an Internet
17 website to collect and compile data and produce reports meeting
18 standards approved by the commissioner as provided by Section
19 7.008.

20 (b) In order to develop and evaluate the data, the
21 third-party contractor may collect data from each school district
22 under the contract, including data that is confidential under state
23 or federal law. Confidential data collected by the contractor does
24 not lose its character as confidential information because of its
25 collection by the contractor, and providing that data to the
26 contractor does not constitute a release of the information by the
27 school district.

1 (c) The contractor and its employees are subject to any
2 state or federal law governing the release of or providing access to
3 any confidential information to the same extent as the school
4 district from which the data is collected. The contractor may not
5 release or distribute the data to any other person in a form that
6 contains confidential information.

7 (d) Confidential information may be used by the contractor
8 solely for the purposes provided by Section 7.008 and must be
9 destroyed immediately when no longer needed for those purposes.

10 SECTION 2B.04. Subchapter B, Chapter 7, Education Code, is
11 amended by adding Section 7.0221 to read as follows:

12 Sec. 7.0221. FINANCIAL ACCOUNTING REPORT REQUIRED. (a)

13 The agency shall:

14 (1) use standard accepted cost accounting practices
15 for reporting all expenditures; and

16 (2) identify and report each expenditure separately by
17 purpose as educational, support, or administrative.

18 (b) The commissioner shall prepare an annual cost
19 accounting report of all expenditures described by Subsection (a).

20 (c) The commissioner shall make the annual cost accounting
21 report for a fiscal year available to the public on the agency's
22 Internet website not later than January 1 following that fiscal
23 year. The commissioner shall provide a copy of the annual cost
24 accounting report to any person who submits a written request to the
25 commissioner.

26 SECTION 2B.05. Section 8.102, Education Code, is amended to
27 read as follows:

1 Sec. 8.102. DATA REPORTING. (a) Each regional education
2 service center shall report audited or budgeted financial
3 information and any other information requested by the commissioner
4 for use in assessing the performance of the center. The
5 commissioner shall develop a uniform system for regional education
6 service centers to report audited financial data, to report
7 information on the indicators adopted under Section 8.101, and to
8 provide information on client satisfaction with services provided
9 under Subchapter B.

10 (b) The uniform system for reporting required by Subsection
11 (a) must require regional education service centers to:

12 (1) use standard accepted cost accounting practices
13 approved by the commissioner for reporting all expenditures; and

14 (2) identify and report each expenditure separately by
15 purpose as educational, support, or administrative.

16 SECTION 2B.06. Section 8.103, Education Code, is amended to
17 read as follows:

18 Sec. 8.103. ANNUAL EVALUATION. (a) The commissioner shall
19 conduct an annual evaluation of each executive director and
20 regional education service center. Each evaluation must include:

21 (1) an audit of the center's finances;

22 (2) a review of the center's performance on the
23 indicators adopted under Section 8.101;

24 (3) a review of client satisfaction with services
25 provided under Subchapter B; and

26 (4) a review of any other factor the commissioner
27 determines to be appropriate.

1 (b) In the audit conducted under Subsection (a)(1), the
2 commissioner shall verify that the regional education service
3 center has identified each expenditure separately by purpose as
4 educational, support, or administrative as required by Section
5 8.102(b).

6 (c) The commissioner shall make the annual evaluation for a
7 fiscal year available to the public not later than January 1
8 following that fiscal year. The commissioner shall provide a copy
9 of the annual evaluation to any person who submits a written request
10 to the commissioner.

11 PART C. SCHOOL DISTRICT GOVERNANCE AND OTHER OPERATIONS

12 SECTION 2C.01. Section 7.056(e), Education Code, is amended
13 to read as follows:

14 (e) Except as provided by Subsection (f), a school campus or
15 district may not receive an exemption or waiver under this section
16 from:

17 (1) a prohibition on conduct that constitutes a
18 criminal offense;

19 (2) a requirement imposed by federal law or rule,
20 including a requirement for special education or bilingual
21 education programs; or

22 (3) a requirement, restriction, or prohibition
23 relating to:

24 (A) essential knowledge or skills under Section
25 28.002 or minimum graduation requirements under Section 28.025;

26 (B) public school accountability as provided by
27 Subchapters B, C, D, and G, Chapter 39;

- 1 (C) extracurricular activities under Section
2 33.081;
- 3 (D) health and safety under Chapter 38;
- 4 (E) purchasing under Subchapter B, Chapter 44;
- 5 (F) elementary school class size limits, except
6 as provided by Section 25.112;
- 7 (G) removal of a disruptive student from the
8 classroom under Subchapter A, Chapter 37;
- 9 (H) at-risk programs under Subchapter C, Chapter
10 29;
- 11 (I) prekindergarten programs under Subchapter E,
12 Chapter 29;
- 13 (J) educator rights and benefits under
14 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter
15 A, Chapter 22;
- 16 (K) special education programs under Subchapter
17 A, Chapter 29; ~~[or]~~
- 18 (L) bilingual education programs under
19 Subchapter B, Chapter 29; or
- 20 (M) the requirements for the first and last day
21 of instruction under Section 25.0811, except as provided by that
22 section.

23 SECTION 2C.02. (a) Section 11.059, Education Code, is
24 amended to read as follows:

25 Sec. 11.059. TERMS. (a) A trustee of an independent school
26 district serves a term of ~~[three or]~~ four years.

27 (b) ~~[Elections for trustees with three-year terms shall be~~

1 ~~held annually. The terms of one-third of the trustees, or as near~~
2 ~~to one-third as possible, expire each year.]~~

3 [~~(e)~~] Elections for trustees [~~with four-year terms~~] shall
4 be held on the uniform election date in November in even-numbered
5 years [~~biennially~~]. The terms of one-half of the trustees, or as
6 near to one-half as possible, expire every two years.

7 (c) [~~(d)~~] A board policy must state the schedule on which
8 specific terms expire.

9 (b) Section 41.001(d), Election Code, is amended to read as
10 follows:

11 (d) A general election of officers of a city, school
12 district, junior college district, or hospital district may not be
13 held on the February or September uniform election date. A general
14 election of officers of an independent school district may not be
15 held on the February, May, or September uniform election date.

16 SECTION 2C.03. Subchapter C, Chapter 11, Education Code, is
17 amended by adding Section 11.066 to read as follows:

18 Sec. 11.066. REMOVAL FOR FAILURE TO ATTEND BOARD MEETINGS.

19 (a) It is a ground for removal of a trustee of an independent school
20 district that the trustee is absent from more than half of the
21 regularly scheduled board of trustees meetings during a calendar
22 year that the member is eligible to attend, unless the absence is
23 excused by a majority vote of the board of trustees.

24 (b) If the superintendent of the school district has
25 knowledge that a ground for removal under this section exists, the
26 superintendent shall notify the board of trustees. On a
27 determination that a potential ground for removal exists, the board

1 shall notify the appropriate county or district attorney or the
2 attorney general.

3 SECTION 2C.04. Subchapter D, Chapter 11, Education Code, is
4 amended by adding Section 11.1511 to read as follows:

5 Sec. 11.1511. ELECTRONIC NOTICE FOR PUBLIC HEARINGS OR
6 MEETINGS PERMITTED. (a) Instead of publishing notice for a public
7 hearing or public meeting in the manner prescribed by statute, a
8 school district may publish any required notice on its Internet
9 website if authorized by rule adopted by the trustees of the
10 independent school district.

11 (b) A school district that publishes notice under this
12 section must have a link on its Internet website that is clearly
13 identified as the link to public notices for public hearings or
14 public meetings.

15 SECTION 2C.05. Subchapter D, Chapter 11, Education Code, is
16 amended by adding Section 11.170 to read as follows:

17 Sec. 11.170. CONFLICTS OF INTEREST. (a) Except as provided
18 by Subsection (b), a member of the board of trustees of a school
19 district that has its central administrative office in a
20 municipality with a population of 10,000 or less may not receive any
21 financial benefit for personal or professional services performed
22 by the member or by a business entity in which the member has a
23 substantial interest, as determined under Chapter 171, Local
24 Government Code, under a contract or other agreement with the
25 district.

26 (b) Subsection (a) does not prohibit a contract or other
27 agreement between a school district and a business entity that

1 employs a member of the district's board of trustees or a person
2 related to a member of the board of trustees if:

3 (1) the member does not otherwise have a substantial
4 interest in the business entity; and

5 (2) the member or the person related to the member does
6 not participate in an action taken by the business entity to obtain
7 or perform under the contract or agreement.

8 (c) This section controls to the extent of any conflict
9 between this section and Chapter 171, Local Government Code.

10 SECTION 2C.06. Section 11.201, Education Code, is amended
11 by adding Subsections (e) and (f) to read as follows:

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

18 (f) A school district may not pay a superintendent a salary
19 in an amount that exceeds 400 percent of the salary of the highest
20 paid classroom teacher in the district.

21 SECTION 2C.07. Section 25.001, Education Code, is amended
22 by amending Subsection (b) and adding Subsection (b-1) to read as
23 follows:

24 (b) The board of trustees of a school district or its
25 designee shall admit into the public schools of the district free of
26 tuition a person who is over five and younger than 21 years of age on
27 the first day of September of the school year in which admission is

1 sought if:

2 (1) the person and either parent of the person reside
3 in the school district;

4 (2) the person does not reside in the school district
5 but a parent of the person resides in the school district and that
6 parent is a joint managing conservator or the sole managing
7 conservator or possessory conservator of the person;

8 (3) the person and the person's guardian or other
9 person having lawful control of the person under a court order
10 reside within the school district;

11 (4) the person has established a separate residence
12 under Subsection (d);

13 (5) the person is homeless, as defined by 42 U.S.C.
14 Section 11302, regardless of the residence of the person, of either
15 parent of the person, or of the person's guardian or other person
16 having lawful control of the person;

17 (6) the person is a foreign exchange student placed
18 with a host family that resides in the school district by a
19 nationally recognized foreign exchange program, unless the school
20 district has applied for and been granted a waiver by the
21 commissioner under Subsection (e);

22 (7) the person resides at a residential facility
23 located in the district; ~~or~~

24 (8) the person resides in the school district and is 18
25 years of age or older or the person's disabilities of minority have
26 been removed; or

27 (9) the person does not reside in the school district

1 but the grandparent of the person:

2 (A) resides in the school district; and

3 (B) provides a substantial amount of
4 after-school care for the person as determined by the board.

5 (b-1) A school district may not prohibit a parent or
6 grandparent of a student admitted under this section from providing
7 any food product of the parent's or grandparent's choice to:

8 (1) children in the classroom of the child of the
9 parent or grandparent on the occasion of the child's birthday; or

10 (2) children at a school-designated function.

11 SECTION 2C.08. Section 25.002, Education Code, is amended
12 by amending Subsection (a) and adding Subsection (a-1) to read as
13 follows:

14 (a) If [~~Not later than the 30th day after the date~~] a parent
15 or other person with legal control of a child under a court order
16 enrolls the child in a public school, the parent or other person or
17 the school district in which the child most recently attended
18 school shall furnish to the school district:

19 (1) the child's birth certificate or another document
20 suitable as proof of the child's identity;

21 (2) a copy of the child's records from the school the
22 child most recently attended if the child has been previously
23 enrolled in a school in this state or another state; and

24 (3) a record showing that the child has the
25 immunizations as required under Section 38.001, in the case of a
26 child required under that section to be immunized, proof as
27 required by that section showing that the child is not required to

1 be immunized, or proof that the child is entitled to provisional
2 admission under that section and under rules adopted under that
3 section.

4 (a-1) Information a school district furnishes under
5 Subsection (a) must be furnished by the district not later than the
6 10th day after the date a request for the information is received by
7 the school district. Information a parent or other person with
8 legal control of a child under a court order furnishes under
9 Subsection (a) must be furnished by the parent or other person not
10 later than the 30th day after the date a child is enrolled in a
11 public school. If a parent or other person with legal control of a
12 child under a court order requests that a district transfer a
13 child's student records, the district to which the request is made
14 shall notify the parent or other person as soon as practicable that
15 the parent or other person may request and receive an unofficial
16 copy of the records for delivery in person to a school in another
17 district.

18 SECTION 2C.09. Section 25.031, Education Code, is amended
19 to read as follows:

20 Sec. 25.031. ASSIGNMENTS AND TRANSFERS IN DISCRETION OF
21 GOVERNING BOARD. (a) In conformity with this subchapter, the board
22 of trustees of a school district or the board of county school
23 trustees or a school employee designated by the board may assign and
24 transfer any student from one school facility or classroom to
25 another within its jurisdiction.

26 (b) A student who transfers to a school campus other than
27 the campus the student would normally attend based on the student's

1 residence may not be subsequently transferred out of a class at that
2 campus before the end of a semester if the only purpose of the
3 subsequent transfer is to comply with the limit in Section 25.112.
4 A school district is not required to apply for an exception under
5 Section 25.112(d) for the class in which the student is enrolled.

6 SECTION 2C.10. Subchapter B, Chapter 25, Education Code, is
7 amended by adding Section 25.0311 to read as follows:

8 Sec. 25.0311. ASSIGNMENT OF CERTAIN ELEMENTARY SCHOOL
9 STUDENTS. Notwithstanding any other provision of this subchapter,
10 an elementary school student is entitled to attend any elementary
11 school campus located not more than three-fourths of a mile from any
12 boundary of the real property on which the student's residence is
13 located, unless the board of trustees of the school district
14 determines that the student would be subject to a hazardous traffic
15 condition, such as crossing a major street, if walking to the campus
16 or otherwise could not easily reach the campus safely from the
17 student's residence.

18 SECTION 2C.11. The heading to Section 25.0811, Education
19 Code, is amended to read as follows:

20 Sec. 25.0811. FIRST AND LAST DAY OF INSTRUCTION.

21 SECTION 2C.12. Section 25.0811(a), Education Code, is
22 amended to read as follows:

23 [~~(a)~~] A school district shall [~~may not~~] begin instruction
24 for students for a school year on the first Tuesday after Labor Day.
25 The school year must end not later than June 7 unless:

26 (1) the district operates a year-round system under
27 Section 25.084; or

1 (2) the commissioner grants a waiver to extend the
2 school year at a campus as the result of a disaster, flood, extreme
3 weather condition, fuel curtailment, or other calamity that caused
4 a closure of the campus for a significant period [~~before the week in~~
5 ~~which August 21 falls. For purposes of this subsection, Sunday is~~
6 ~~considered the first day of the week~~].

7 SECTION 2C.13. Subchapter Z, Chapter 25, Education Code, is
8 amended by adding Section 25.902 to read as follows:

9 Sec. 25.902. CERTAIN MANDATORY STUDENT IDENTIFICATION
10 METHODS PROHIBITED. (a) In this section, "radio frequency
11 identification technology" means a wireless identification system
12 that uses an electromagnetic radio frequency signal to transmit
13 data between a card, badge, or tag and another device without
14 physical contact.

15 (b) A school district may not require a student to use an
16 identification device that uses radio frequency identification
17 technology or similar technology to identify the student, transmit
18 information regarding the student, or track the location of the
19 student.

20 (c) A school district that permits the voluntary use of a
21 student identification device described by Subsection (b) shall
22 provide an alternative method of identification for a student if
23 the student's parent or guardian submits timely written objection
24 to the use of radio frequency identification technology.

25 SECTION 2C.14. Subchapter D, Chapter 33, Education Code, is
26 amended by adding Section 33.087 to read as follows:

27 Sec. 33.087. ELIGIBILITY OF STUDENTS PARTICIPATING IN JOINT

1 CREDIT OR CONCURRENT ENROLLMENT PROGRAMS. A student otherwise
2 eligible to participate in an extracurricular activity or a
3 University Interscholastic League competition is not ineligible
4 because the student is enrolled in a course offered for joint high
5 school and college credit or in a course offered under a concurrent
6 enrollment program, regardless of the location at which the course
7 is provided.

8 SECTION 2C.15. Section 37.006, Education Code, is amended
9 by adding Subsection (d-1) to read as follows:

10 (d-1) A student may be removed from class and placed in an
11 alternative education program as provided by Section 37.008 if the
12 student, while on school property or while attending a
13 school-sponsored or school-related activity on or off of school
14 property, engages in conduct that contains the elements of the
15 offense of assault under Section 22.01(a)(2) or (3), Penal Code.

16 SECTION 2C.16. Section 37.007(b), Education Code, as
17 amended by Chapters 443 and 1055, Acts of the 78th Legislature,
18 Regular Session, 2003, is reenacted and amended to read as follows:

19 (b) A student may be expelled if the student:

20 (1) engages in conduct involving a public school that
21 contains the elements of the offense of false alarm or report under
22 Section 42.06, Penal Code, or terroristic threat under Section
23 22.07, Penal Code;

24 (2) while on or within 300 feet of school property, as
25 measured from any point on the school's real property boundary
26 line, or while attending a school-sponsored or school-related
27 activity on or off of school property:

1 (A) sells, gives, or delivers to another person
2 or possesses, uses, or is under the influence of any amount of:
3 (i) marihuana or a controlled substance, as
4 defined by Chapter 481, Health and Safety Code, or by 21 U.S.C.
5 Section 801 et seq.;

6 (ii) a dangerous drug, as defined by
7 Chapter 483, Health and Safety Code; or
8 (iii) an alcoholic beverage, as defined by
9 Section 1.04, Alcoholic Beverage Code;

10 (B) engages in conduct that contains the elements
11 of an offense relating to an abusable volatile chemical under
12 Sections 485.031 through 485.034, Health and Safety Code;

13 (C) engages in conduct that contains the elements
14 of an offense under Section 22.01(a)(1), Penal Code, against a
15 school district employee or a volunteer as defined by Section
16 22.053; or

17 (D) engages in conduct that contains the elements
18 of the offense of deadly conduct under Section 22.05, Penal Code;
19 ~~☒~~

20 (3) subject to Subsection (d), while within 300 feet
21 of school property, as measured from any point on the school's real
22 property boundary line:

23 (A) engages in conduct specified by Subsection
24 (a); or

25 (B) possesses a firearm, as defined by 18 U.S.C.
26 Section 921; ~~☒~~

27 (4) ~~(3)~~ engages in conduct that contains the

1 elements of any offense listed in Subsection (a)(2)(A) or (C) or the
2 offense of aggravated robbery under Section 29.03, Penal Code,
3 against another student, without regard to whether the conduct
4 occurs on or off of school property or while attending a
5 school-sponsored or school-related activity on or off of school
6 property; or

7 (5) engages in conduct that contains the elements of
8 the offense of assault under Section 22.01, Penal Code.

9 SECTION 2C.17. Section 42.002(a), Election Code, is amended
10 to read as follows:

11 (a) The county election precincts are the election
12 precincts for the following elections:

13 (1) the general election for state and county
14 officers;

15 (2) a special election ordered by the governor;

16 (3) a primary election; ~~and~~

17 (4) a countywide election ordered by the commissioners
18 court, county judge, or other county authority, except an election
19 subject to Section 42.062(2); and

20 (5) an election held by a school district on the
21 November uniform election date, as provided by Section 42.0621.

22 SECTION 2C.18. Subchapter C, Chapter 42, Election Code, is
23 amended by adding Section 42.0621 to read as follows:

24 Sec. 42.0621. PRECINCTS FOR NOVEMBER SCHOOL DISTRICT
25 ELECTION. (a) A school district that holds an election on the
26 November uniform election date shall use the regular county
27 election precincts.

1 (b) If an election precinct contains territory from more
2 than one school district or more than one district used to elect a
3 member of the governing body of a school district, election
4 officials shall take reasonable measures to ensure that a voter
5 voting at that precinct may not vote in an election in which the
6 voter is not entitled to vote.

7 (c) This section does not require a school district to
8 contract with a county under Section 31.092 or hold a joint election
9 with a county under Chapter 271.

10 (d) The secretary of state shall prescribe procedures to
11 implement this section.

12 SECTION 2C.19. Section 43.004, Election Code, is amended to
13 read as follows:

14 Sec. 43.004. DESIGNATION OF LOCATION: ELECTIONS OF OTHER
15 POLITICAL SUBDIVISIONS. (a) The governing body of each political
16 subdivision authorized to hold elections, other than a county,
17 shall designate the location of the polling place for each of its
18 election precincts.

19 (b) If a school district holds an election on the November
20 uniform election date, the school district shall designate as the
21 polling places for the election the regular county polling places
22 in the county election precincts that contain territory from the
23 school district.

24 SECTION 2C.20. Section 44.031(g), Education Code, is
25 amended to read as follows:

26 (g) Except as provided by Section 44.045, notice [~~Notice~~] of
27 the time by when and place where the bids or proposals, or the

1 responses to a request for qualifications, will be received and
2 opened shall be published in the county in which the district's
3 central administrative office is located, once a week for at least
4 two weeks before the deadline for receiving bids, proposals, or
5 responses to a request for qualifications. If there is not a
6 newspaper in that county, the advertising shall be published in a
7 newspaper in the county nearest the county seat of the county in
8 which the district's central administrative office is located. In
9 a two-step procurement process, the time and place where the
10 second-step bids, proposals, or responses will be received are not
11 required to be published separately.

12 SECTION 2C.21. Section 44.033(b), Education Code, is
13 amended to read as follows:

14 (b) Except as provided by Section 44.045, for ~~For~~ each
15 12-month period, the district shall publish a notice in two
16 successive issues of any newspaper of general circulation in the
17 county in which the school is located. If there is no newspaper in
18 the county in which the school is located, the advertising shall be
19 published in a newspaper in the county nearest the county seat of
20 the county in which the school is located, specifying the
21 categories of personal property to be purchased under this section
22 and soliciting the names, addresses, and telephone numbers of
23 vendors that are interested in supplying any of the categories to
24 the district. For each category, the district shall create a vendor
25 list consisting of each vendor that responds to the published
26 notice and any additional vendors the district elects to include.

27 SECTION 2C.22. Subchapter B, Chapter 44, Education Code, is

1 amended by adding Section 44.045 to read as follows:

2 Sec. 44.045. ELECTRONIC NOTICE. Instead of the detailed
3 notice required under Sections 44.031(g) and 44.033(b), a school
4 district may publish an abbreviated notice that states the
5 universal resource locator of the publicly accessible Internet
6 website where the detailed notice is published. The detailed notice
7 must be continuously available on the website for whichever of the
8 following periods is longer:

9 (1) the two weeks before the deadline for receiving
10 bids, proposals, or responses to a request for qualifications; or

11 (2) the period required for the printed publication of
12 the detailed notice.

13 SECTION 2C.23. Subchapter Z, Chapter 271, Local Government
14 Code, is amended by adding Section 271.908 to read as follows:

15 Sec. 271.908. ELECTRONIC NOTICE BY SCHOOL DISTRICT. Instead
16 of the detailed notice required by Sections 271.055 and 272.001, a
17 school district may publish an abbreviated notice that states the
18 universal resource locator of the publicly accessible Internet
19 website where the detailed notice is published. The detailed
20 notice must be continuously available on the website for whichever
21 of the following periods is longer:

22 (1) the 14 days before the school district takes the
23 action for which the notice is required; or

24 (2) the period required for the printed publication of
25 the detailed notice.

26 SECTION 2C.24. Section 272.001(a), Local Government Code,
27 is amended to read as follows:

1 (a) Except for the types of land and interests covered by
2 Subsection (b), (g), (h), (i), or (j), and except as provided by
3 Sections [~~Section~~] 253.008 and 271.908, before land owned by a
4 political subdivision of the state may be sold or exchanged for
5 other land, notice to the general public of the offer of the land
6 for sale or exchange must be published in a newspaper of general
7 circulation in either the county in which the land is located or, if
8 there is no such newspaper, in an adjoining county. The notice must
9 include a description of the land, including its location, and the
10 procedure by which sealed bids to purchase the land or offers to
11 exchange the land may be submitted. The notice must be published on
12 two separate dates and the sale or exchange may not be made until
13 after the 14th day after the date of the second publication.

14 SECTION 2C.25. (a) Section 11.059, Education Code, as
15 amended by this Act, applies to a school district trustee election
16 scheduled to be held on or after November 8, 2005.

17 (b) Except as provided by Subsection (c) of this section, a
18 school district trustee election that on the effective date of this
19 Act is scheduled to be held on November 8, 2005, or May 6, 2006, must
20 be held on November 7, 2006.

21 (c) If, under Subsection (b) of this section, the positions
22 of more than one-half of the trustees or as near to one-half as
23 possible would be scheduled for election on November 7, 2006, the
24 trustees holding those positions shall draw lots to determine, as
25 appropriate, which positions are subject to election in 2006 and
26 which are subject to election in 2008.

27 (d) To implement the changes made to Section 11.059,

1 Education Code, as amended by this Act, a person may serve a term as
2 school district trustee that is longer than the term for which the
3 person was elected.

4 SECTION 2C.26. Section 11.066, Education Code, as added by
5 this Act, applies only to trustee attendance at a board of trustees
6 meeting held on or after the effective date of this Act. Trustee
7 attendance at a board of trustees meeting held before the effective
8 date of this Act is governed by the law in effect when the meeting
9 was held, and the former law is continued in effect for that
10 purpose.

11 PART D. ACCOUNTABILITY

12 SECTION 2D.01. Subchapter A, Chapter 7, Education Code, is
13 amended by adding Section 7.010 to read as follows:

14 Sec. 7.010. BEST PRACTICES; CLEARINGHOUSE. (a) The agency
15 shall establish an accessible online clearinghouse of information
16 relating to the best practices of school districts for curriculum
17 development, classroom instruction, bilingual education, special
18 language programs, and business practices. The information must be
19 accessible by school districts and interested members of the
20 public.

21 (b) The agency shall:

22 (1) allow each school district to submit examples of
23 the district's best practices for:

24 (A) curriculum development and classroom
25 instruction, including best practices regarding scope and sequence
26 of education;

27 (B) bilingual education and special language

1 programs; and

2 (C) business practices, including descriptions
3 of effective, efficient practices;

4 (2) organize the best practices for curriculum
5 development and classroom instruction by each grade level and each
6 subject in the required curriculum under Section 28.002;

7 (3) organize the best practices for business practices
8 with priority given to descriptions of effective, efficient
9 practices provided by districts rated exemplary or recognized under
10 Subchapter D, Chapter 39; and

11 (4) periodically update information described by this
12 section as the agency determines necessary to provide timely
13 information regarding best practices.

14 (c) The agency may include in the clearinghouse any
15 information that the agency determines to be relevant to the best
16 practices of school districts.

17 (d) Based on the measure of progress toward English language
18 proficiency under Section 29.065, the commissioner shall determine
19 which school districts offer the most effective bilingual education
20 and special language programs and make the information available as
21 provided by this section.

22 (e) The agency shall contract for the services of one or
23 more third-party contractors to develop a system of collecting and
24 evaluating best practices of school districts as provided by this
25 section. In addition to any other considerations required by law,
26 the agency must consider an applicant's demonstrated competence and
27 qualifications in analyzing school district practices in awarding a

1 contract under this subsection.

2 (f) The agency shall implement this section not later than
3 September 1, 2006. This subsection expires January 1, 2007.

4 SECTION 2D.02. Section 7.056(f), Education Code, is amended
5 to read as follows:

6 (f) A school district or campus that is required to develop
7 and implement a student achievement improvement plan under Section
8 39.131 or 39.132 or that is subject to Section 39.1321 or 39.1322
9 may receive an exemption or waiver under this section from any law
10 or rule other than:

11 (1) a prohibition on conduct that constitutes a
12 criminal offense;

13 (2) a requirement imposed by federal law or rule;

14 (3) a requirement, restriction, or prohibition
15 imposed by state law or rule relating to:

16 (A) public school accountability as provided by
17 Subchapters B, C, D, and G, Chapter 39; or

18 (B) educator rights and benefits under
19 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter
20 A, Chapter 22; or

21 (4) textbook selection under Chapter 31.

22 SECTION 2D.03. Subchapter A, Chapter 11, Education Code, is
23 amended by adding Section 11.004 to read as follows:

24 Sec. 11.004. APPLICABILITY OF TITLE TO EXEMPLARY DISTRICTS
25 AND CAMPUSES. A school district or campus rated exemplary under
26 Section 39.072 is subject only to the prohibitions, restrictions,
27 and requirements of this title that apply to an open-enrollment

1 charter school under Section 12.104(b).

2 SECTION 2D.04. Section 25.005(b), Education Code, is
3 amended to read as follows:

4 (b) A reciprocity agreement must:

5 (1) address procedures for:

6 (A) transferring student records;

7 (B) awarding credit for completed course work;

8 and

9 (C) permitting a student to satisfy the
10 requirements of Section 39.025 through successful performance on
11 comparable end-of-course or other exit-level assessment
12 instruments administered in another state; and

13 (2) include appropriate criteria developed by the
14 agency.

15 SECTION 2D.05. Section 28.002(h), Education Code, is
16 amended to read as follows:

17 (h) The State Board of Education and each school district
18 shall foster the continuation of the tradition of teaching United
19 States and Texas history and the free enterprise system in regular
20 subject matter, ~~and~~ in social studies, economics, and reading
21 courses, and in the adoption of textbooks. A primary purpose of the
22 public school curriculum is to prepare thoughtful, active citizens
23 who understand the importance of patriotism and can function
24 productively in a free enterprise society with appreciation for the
25 basic democratic values of our state and national heritage.

26 SECTION 2D.06. The heading to Section 28.0211, Education
27 Code, is amended to read as follows:

1 Sec. 28.0211. SATISFACTORY PERFORMANCE ON ASSESSMENT
2 INSTRUMENTS REQUIRED FOR PROMOTION TO CERTAIN GRADE LEVELS;
3 ACCELERATED INSTRUCTION.

4 SECTION 2D.07. Subchapter B, Chapter 28, Education Code, is
5 amended by adding Section 28.0215 to read as follows:

6 Sec. 28.0215. SATISFACTORY PERFORMANCE REQUIRED:
7 END-OF-COURSE ASSESSMENT INSTRUMENTS. (a) A student may not
8 receive course credit for a course described by Section 39.023(c)
9 unless the student performs satisfactorily on the end-of-course
10 assessment instrument for the course.

11 (b) The commissioner may adopt rules establishing a
12 procedure for a student who did not perform satisfactorily on an
13 end-of-course assessment instrument to retake the assessment
14 instrument and obtain course credit.

15 SECTION 2D.08. Subchapter B, Chapter 28, Education Code, is
16 amended by adding Section 28.0216 to read as follows:

17 Sec. 28.0216. LIMITS ON ASSIGNMENT OF STUDENTS TO TEACHERS.
18 (a) A student in kindergarten through grade six may not be assigned
19 for two consecutive school years to a teacher who:

20 (1) has less than one year of teaching experience; or
21 (2) does not hold the certificate required under
22 Section 21.003.

23 (b) In a subject for which a student is assessed under
24 Section 39.023(a) or (c), a student in grade seven through 12 may
25 not be assigned for two consecutive years to a teacher who:

26 (1) has less than one year of teaching experience; or
27 (2) does not hold the certificate required under

1 Section 21.003.

2 SECTION 2D.09. Section 28.025, Education Code, is amended
3 by amending Subsections (c), (d), and (e) and adding Subsection (f)
4 to read as follows:

5 (c) A person may receive a diploma if the person is eligible
6 for a diploma under Section 28.0251. In other cases, a student may
7 graduate and receive a diploma only if[+]

8 [~~1~~] the student successfully completes:

9 (1) the curriculum requirements identified by the
10 State Board of Education under Subsection (a) [~~and complies with~~
11 ~~Section 39.025(a)~~]; or

12 (2) [~~the student successfully completes~~] an
13 individualized education program developed under Section 29.005.

14 (d) Except as provided by Section 39.0241, a person may not
15 receive a diploma unless the person complies with Section 39.025.
16 For each year in which a person must comply with Section 39.025 to
17 receive a diploma, a [A] school district may issue a certificate of
18 coursework completion to a student who successfully completes the
19 curriculum requirements identified by the State Board of Education
20 under Subsection (a) but who fails to comply with Section 39.025
21 [~~39.025(a)~~]. A school district may allow a student who receives a
22 certificate to participate in a graduation ceremony with students
23 receiving high school diplomas. This subsection ceases to apply on
24 the date the commissioner certifies that the implementation of
25 amendments made by H.B. No. 2, Acts of the 79th Legislature, Regular
26 Session, 2005, to Sections 39.023(a) and (c) and 39.051(b) is
27 complete under the transition plan adopted under Section 39.0241.

1 This subsection expires September 1, 2011.

2 (e) Each school district shall report the academic
3 achievement record of students who have completed a minimum,
4 recommended, or advanced high school program on transcript forms
5 adopted by the State Board of Education. The transcript forms
6 adopted by the board must be designed to clearly differentiate
7 between each of the high school programs.

8 (f) The transcript forms adopted by the State Board of
9 Education under Subsection (e) must be designed to ~~and~~ identify
10 whether a student received a diploma or a certificate of coursework
11 completion. This subsection expires September 1, 2011.

12 SECTION 2D.10. Section 29.081(b), Education Code, is
13 amended to read as follows:

14 (b) Each district shall provide accelerated instruction to
15 a student enrolled in the district who has taken an end-of-course
16 ~~[the secondary exit level]~~ assessment instrument administered
17 under Section 39.023(c) and has not performed satisfactorily on the
18 assessment instrument ~~[each section]~~ or who is at risk of dropping
19 out of school.

20 SECTION 2D.11. 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.

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 at-risk 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.12. Section 29.187(b), Education Code, is
2 amended to read as follows:

3 (b) An award granted under this section is not in lieu of a
4 diploma [~~or certificate of coursework completion~~] issued under
5 Section 28.025.

6 SECTION 2D.13. Section 29.202, Education Code, is amended
7 to read as follows:

8 Sec. 29.202. ELIGIBILITY. (a) In this section, "adequate
9 yearly progress standard" means a standard:

10 (1) determined by the commissioner and approved by the
11 United States Department of Education as provided by the No Child
12 Left Behind Act of 2001 (Pub. L. No. 107-110); and

13 (2) used to measure various indicators of educational
14 success to determine the progress of a campus towards academic
15 achievement.

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

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

24 (2) that was, at any time in the preceding three years,
25 considered low-performing under Section 39.132; or

26 (3) that has not met the adequate yearly progress
27 standard for the same indicator of educational success for the

1 preceding two years.

2 (c) [~~(b)~~] After a student has used a public education grant
3 to attend a school in a district other than the district in which
4 the student resides, [+]

5 [~~(1)~~] the student does not become ineligible for the
6 grant if the school on which the student's initial eligibility is
7 based no longer meets the criteria under Subsection (b) [~~(a); and~~]
8 [~~(2) the student becomes ineligible for the grant if~~
9 ~~the student is assigned to attend a school that does not meet the~~
10 ~~criteria under Subsection (a)].~~

11 SECTION 2D.14. Subchapter G, Chapter 29, Education Code, is
12 amended by adding Section 29.2021 to read as follows:

13 Sec. 29.2021. CONFLICT OF LAWS. To the extent of a conflict
14 between this subchapter and a provision of Section 1116, No Child
15 Left Behind Act of 2001 (20 U.S.C. Section 6316), the No Child Left
16 Behind Act of 2001 prevails.

17 SECTION 2D.15. Section 29.203(f), Education Code, is
18 amended to read as follows:

19 (f) The school district in which a student resides shall
20 provide each student attending a school in another district under
21 this subchapter transportation free of charge to and from the
22 school the student would otherwise attend, except as provided by
23 Section 1116, No Child Left Behind Act of 2001 (20 U.S.C. Section
24 6316).

25 SECTION 2D.16. Section 30.021(e), Education Code, is
26 amended to read as follows:

27 (e) The school shall cooperate with public and private

1 agencies and organizations serving students and other persons with
2 visual impairments in the planning, development, and
3 implementation of effective educational and rehabilitative service
4 delivery systems associated with educating students with visual
5 impairments. To maximize and make efficient use of state
6 facilities, funding, and resources, the services provided in this
7 area may include conducting a cooperative program with other
8 agencies to serve students who have graduated from high school by
9 completing all academic requirements applicable to students in
10 regular education, excluding satisfactory performance on the
11 end-of-course [~~exit-level~~] assessment instruments required by
12 commissioner rule under Section 39.023(c) [~~instrument~~], who are
13 younger than 22 years of age on September 1 of the school year and
14 who have identified needs related to vocational training,
15 independent living skills, orientation and mobility, social and
16 leisure skills, compensatory skills, or remedial academic skills.

17 SECTION 2D.17. Sections 30.104(b) and (c), Education Code,
18 are amended to read as follows:

19 (b) A student may graduate and receive a diploma from a
20 Texas Youth Commission educational program if[+]

21 [~~(1)~~] the student successfully completes:

22 (1) the curriculum requirements identified by the
23 State Board of Education under Section 28.025(a) [~~and complies with~~
24 ~~Section 39.025(a)~~]; or

25 (2) [~~the student successfully completes~~] the
26 curriculum requirements under Section 28.025(a) as modified by an
27 individualized education program developed under Section 29.005.

1 (c) Except as provided by Section 39.0241, a person may not
2 receive a diploma unless the person complies with Section 39.025.
3 For each year in which a person must comply with Section 39.025 to
4 receive a diploma, a [A] Texas Youth Commission educational program
5 may issue a certificate of course-work completion to a student who
6 successfully completes the curriculum requirements identified by
7 the State Board of Education under Section 28.025(a) but who fails
8 to comply with Section 39.025 [39.025(a)]. This subsection ceases
9 to apply on the date the commissioner certifies that the
10 implementation of the amendments made by H.B. No. 2, Acts of the
11 79th Legislature, Regular Session, 2005, to Sections 39.023(a) and
12 (c) and 39.051(b) is complete under the transition plan adopted
13 under Section 39.0241. This subsection expires September 1, 2011.

14 SECTION 2D.18. Section 39.023, Education Code, is amended
15 by amending Subsections (a) and (c) and adding Subsection (a-1) to
16 read as follows:

17 (a) The agency shall adopt or develop appropriate
18 criterion-referenced assessment instruments designed to assess
19 essential knowledge and skills in reading, writing, mathematics,
20 social studies, and science. All students, except students
21 assessed under Subsection (b) or (1) or exempted under Section
22 39.027, shall be assessed in:

23 (1) mathematics, annually in grades three through
24 seven without the aid of technology and in grade [~~grades~~] eight
25 [~~through 11~~] with the aid of technology on any assessment
26 instruments that include algebra;

27 (2) reading, annually in grades three through eight

1 ~~[nine]~~;

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

4 (4) ~~[English language arts, in grade 10;]~~
5 ~~[(5)]~~ social studies, in grade ~~[grades]~~ eight ~~[and~~
6 ~~10]~~;

7 (5) ~~[(6)]~~ science, in grades five and~~[7]~~ eight~~[7, and~~
8 ~~10]~~; and

9 (6) ~~[(7)]~~ any other subject and grade required by
10 federal law.

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

22 (c) The agency shall also adopt end-of-course ~~[secondary~~
23 ~~exit-level]~~ assessment instruments for secondary-level courses in
24 Algebra I, Algebra II, Geometry, Biology, Chemistry, Physics,
25 Integrated Physics and Chemistry, English I, English II, English
26 III, World Geography, World History, United States History, and any
27 other course as determined by rule by the commissioner ~~[designed to~~

1 ~~be administered to students in grade 11 to assess essential~~
2 ~~knowledge and skills in mathematics, English language arts, social~~
3 ~~studies, and science. The mathematics section must include at~~
4 ~~least Algebra I and geometry with the aid of technology. The~~
5 ~~English language arts section must include at least English III and~~
6 ~~must include the assessment of essential knowledge and skills in~~
7 ~~writing. The social studies section must include early American and~~
8 ~~United States history. The science section must include at least~~
9 ~~biology and integrated chemistry and physics. The assessment~~
10 ~~instruments must be designed to assess a student's mastery of~~
11 ~~minimum skills necessary for high school graduation and readiness~~
12 ~~to enroll in an institution of higher education].~~ If a student is
13 in a special education program under Subchapter A, Chapter 29, the
14 student's admission, review, and dismissal committee shall
15 determine whether any allowable modification is necessary in
16 administering to the student an assessment instrument required
17 under this subsection or whether the student should be exempted
18 under Section 39.027(a)(2). The State Board of Education shall
19 administer the assessment instruments. The State Board of
20 Education shall adopt a schedule for the administration of
21 end-of-course [~~secondary exit-level~~] assessment instruments.
22 [~~Each student who did not perform satisfactorily on any secondary~~
23 ~~exit-level assessment instrument when initially tested shall be~~
24 ~~given multiple opportunities to retake that assessment~~
25 ~~instrument.~~] A student who performs at or above a level established
26 by the Texas Higher Education Coordinating Board on the
27 end-of-course [~~secondary exit-level~~] assessment instruments is

1 exempt from the requirements of Section 51.3062 [~~51.306~~]. The
2 performance level established by the Texas Higher Education
3 Coordinating Board under this subsection represents the level of
4 academic achievement indicating a student is prepared for college
5 course work. The performance level may be used as an indicator to
6 measure progress toward college preparedness of public school
7 students in this state.

8 SECTION 2D.19. Subchapter B, Chapter 39, Education Code, is
9 amended by adding Section 39.0232 to read as follows:

10 Sec. 39.0232. COMPUTER-ADAPTIVE ASSESSMENT. (a) The
11 agency shall provide for assessment instruments required under
12 Section 39.023 to be designed so that those assessment instruments
13 can be computer-adaptive.

14 (b) To the extent practicable and appropriate, the agency
15 shall require school districts to administer to students the
16 computer-adaptive assessment instruments.

17 (c) The agency shall implement this section not later than
18 March 1, 2006. This subsection expires September 1, 2006.

19 SECTION 2D.20. Section 39.024, Education Code, is amended
20 by amending Subsection (a) and adding Subsections (b) and (b-1) to
21 read as follows:

22 (a) Except as otherwise provided by this subsection, the
23 State Board of Education shall determine the level of performance
24 considered to be satisfactory on the assessment instruments. The
25 board may require a level of performance on assessment instruments
26 for determining district or campus performance under Subchapter D
27 that is higher than the level of performance considered to be

1 satisfactory for a student to be promoted from one grade level to
2 the next. The admission, review, and dismissal committee of a
3 student being assessed under Section 39.023(b) shall determine the
4 level of performance considered to be satisfactory on the
5 assessment instruments administered to that student in accordance
6 with criteria established by agency rule.

7 (b) In determining a level of performance under Subsection
8 (a), a level of performance is satisfactory only if at least 60
9 percent of all students perform satisfactorily on each section of
10 the assessment instrument required under this subchapter.

11 (b-1) Subsection (b) applies beginning with the 2006-2007
12 school year. This subsection expires September 1, 2007.

13 SECTION 2D.21. Subchapter B, Chapter 39, Education Code, is
14 amended by adding Section 39.0241 to read as follows:

15 Sec. 39.0241. TRANSITION PLAN FOR USE OF ASSESSMENT
16 INSTRUMENTS. (a) The commissioner shall by rule adopt a transition
17 plan to implement the amendments made by H.B. No. 2, Acts of the
18 79th Legislature, Regular Session, 2005, to Sections 39.023(a) and
19 (c) and 39.051(b) (5). The rules must provide for the
20 administration of end-of-course assessment instruments adopted
21 under Section 39.023(c) to begin as soon as practicable but not
22 later than the 2008-2009 school year. During the period under which
23 the transition to end-of-course assessment instruments is made:

24 (1) the commissioner may retain, administer, and use
25 for campus and district ratings under Subchapter D any assessment
26 instrument required by Section 39.023(a) or (c), as that section
27 existed before amendment by H.B. No. 2, Acts of the 79th

1 Legislature, Regular Session, 2005; and

2 (2) the agency may defer releasing assessment
3 instrument questions and answer keys as required by Section
4 39.023(e) to the extent necessary to develop additional assessment
5 instruments.

6 (b) Rules adopted under Subsection (a) must require that
7 each student who will be subject to the requirements implemented
8 under the amendments made by H.B. No. 2, Acts of the 79th
9 Legislature, Regular Session, 2005, to Section 39.023(c) is
10 entitled to notice of the specific requirements applicable to the
11 student. Notice under this subsection must be provided not later
12 than the date the student enters the ninth grade.

13 (c) A reference in this code to an end-of-course assessment
14 instrument administered under Section 39.023(c) includes a
15 secondary exit-level assessment instrument administered as
16 provided by Subsection (a).

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

18 SECTION 2D.22. Section 39.025, Education Code, is amended
19 by adding Subsections (d), (e), and (f) to read as follows:

20 (d) Notwithstanding Subsection (a), the commissioner by
21 rule shall adopt one or more alternative nationally recognized norm
22 referenced assessment instruments under this section to administer
23 to a student to qualify for a high school diploma if the student
24 enrolls after January 1 of the school year in which the student is
25 otherwise eligible to graduate:

26 (1) for the first time in a public school in this
27 state; or

1 (2) after an absence of at least four years from any
2 public school in this state.

3 (e) The commissioner shall establish a required performance
4 level for an assessment instrument adopted under Subsection (d)
5 that is at least as rigorous as the performance level for the
6 secondary exit-level assessment instrument for the same subject.

7 (f) This section ceases to apply on the date the
8 commissioner certifies that the implementation of the amendments
9 made by H.B. No. 2, Acts of the 79th Legislature, Regular Session,
10 2005, to Sections 39.023(a) and (c) and 39.051(b) is complete under
11 the transition plan adopted under Section 39.0241. This section
12 expires September 1, 2011.

13 SECTION 2D.23. Subchapter B, Chapter 39, Education Code, is
14 amended by adding Section 39.0261 to read as follows:

15 Sec. 39.0261. COLLEGE READINESS AND PREPARATION
16 ASSESSMENTS. (a) In addition to the assessment instruments
17 otherwise authorized or required by this subchapter, and to promote
18 college readiness, high school students in the spring of the 11th
19 grade or during the 12th grade shall select and take once one of the
20 valid, reliable, and nationally normed assessment instruments used
21 by colleges and universities as part of their undergraduate
22 admissions processes, such as the American College Test (ACT) and
23 the SAT.

24 (b) In addition to the assessment instruments otherwise
25 authorized or required by this subchapter, school districts shall
26 administer to students in the 10th grade a valid, reliable, and
27 nationally normed assessment instrument that promotes rigorous

1 high school course-taking and college readiness, such as the Plan
2 test (ACT) or the PSAT/NMSQT.

3 (c) In addition to the assessment instruments otherwise
4 authorized or required by this subchapter, school districts shall
5 administer to students in the 8th grade a valid, reliable, and
6 nationally normed assessment instrument that promotes rigorous
7 high school course-taking.

8 (d) The agency shall:

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

11 (2) pay from its operating budget all costs associated
12 with administration of the assessment instruments.

13 (e) The agency shall compile the results of any assessment
14 instrument administered under this section and make the results
15 available through the Public Education Information Management
16 System (PEIMS).

17 SECTION 2D.24. Subchapter B, Chapter 39, Education Code, is
18 amended by adding Section 39.034 to read as follows:

19 Sec. 39.034. MEASURE OF VALUE-ADDED STUDENT ACHIEVEMENT ON
20 ASSESSMENT INSTRUMENTS. (a) The commissioner by rule shall adopt a
21 method by which the agency may measure value-added student
22 achievement by tracking changes in a student's performance from one
23 school year to the next on an assessment instrument required under
24 this subchapter.

25 (b) Each year, for each student who takes an assessment
26 instrument required under Section 39.023(a), (b), or (1), the
27 agency shall use the method adopted under Subsection (a) to compare

1 the student's results on the assessment instrument to the student's
2 results on any assessment instrument for that subject the student
3 has taken during the preceding school year.

4 (c) The agency shall maintain a record of the comparisons
5 made under this section. Each year the agency shall:

6 (1) provide the record to the school the student
7 attends; and

8 (2) provide to each teacher a record of all students
9 who were:

10 (A) assessed on an assessment instrument; and

11 (B) taught by that teacher in the subject for
12 which the assessment instrument was administered.

13 (d) The school a student attends shall provide a record of
14 the comparison made under this section and provided to the school
15 under Subsection (c) (1) in a written notice to the student's
16 parents required by Section 28.022(a) (2).

17 (e) The commissioner shall implement this section not later
18 than September 1, 2006. This subsection expires January 1, 2008.

19 SECTION 2D.25. Section 39.051(b), Education Code, as
20 amended by Chapters 433 and 805, Acts of the 78th Legislature,
21 Regular Session, 2003, is reenacted and amended to read as follows:

22 (b) Performance on the indicators adopted under this
23 section shall be compared to state-established standards. The
24 degree of change from one school year to the next in performance on
25 each indicator adopted under this section shall also be considered.
26 The indicators must be based on information that is disaggregated
27 by race, ethnicity, gender, and socioeconomic status and must

1 include:

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

5 (2) dropout rates, including dropout rates and
6 district completion rates for grade levels seven [~~9~~] through 12,
7 computed:

8 (A) as a longitudinal rate and an annual
9 completion rate by grade; and

10 (B) in accordance with standards and definitions
11 adopted by the National Center for Education Statistics of the
12 United States Department of Education;

13 (3) high school graduation rates, computed in
14 accordance with standards and definitions adopted in compliance
15 with the [~~federal~~] No Child Left Behind Act of 2001 (Pub. L. No.
16 107-110);

17 (4) student attendance rates;

18 (5) the percentage of graduating students who attain
19 scores on the end-of-course [~~secondary exit-level~~] assessment
20 instruments required under Subchapter B that are equivalent to a
21 passing score on the assessment [~~test~~] instrument required under
22 Section 51.3062 [~~51.306~~];

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

26 (7) the measure of progress toward English language
27 proficiency under Section 29.065, for students of limited English

1 proficiency, as defined by Section 29.052;
2 (8) value-added student achievement, as measured
3 under Section 39.034;
4 (9) 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 (10) [~~+8~~] the percentage of students, aggregated by
9 grade level, provided accelerated instruction under Section
10 28.0211(c), the results of assessments administered under that
11 section, the percentage of students promoted through the grade
12 placement committee process under Section 28.0211, the subject of
13 the assessment instrument on which each student failed to perform
14 satisfactorily, and the performance of those students in the school
15 year following that promotion on the assessment instruments
16 required under Section 39.023;
17 (11) [~~+9~~] for students who have failed to perform
18 satisfactorily on an assessment instrument required under Section
19 39.023(a) or (c), the numerical progress of those students on
20 subsequent assessment instruments required under those sections,
21 aggregated by grade level and subject area;
22 (12) [~~+10~~] the percentage of students exempted, by
23 exemption category, from the assessment program generally
24 applicable under this chapter; [~~and~~]
25 (13) [~~+11~~] the percentage of students of limited
26 English proficiency exempted from the administration of an
27 assessment instrument under Sections 39.027(a) (3) and (4) ;

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

4 (15) the measure of reduction or increase in any
5 disparity between students at risk of dropping out of school, as
6 defined by Section 29.081, and all other students in:

7 (A) performance on assessment instruments
8 administered under Subchapter B; and

9 (B) high school graduation rates computed as
10 described by Subdivision (3).

11 SECTION 2D.26. Section 39.051(d), Education Code, is
12 amended to read as follows:

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

- 26 (1) the student's expulsion under Section 37.007; and
27 (2) as applicable:

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

4 (B) conviction of and sentencing for an offense
5 under the Penal Code.

6 SECTION 2D.27. Section 39.052, Education Code, is amended
7 by amending Subsection (b) and adding Subsection (d) to read as
8 follows:

9 (b) The report card shall include the following
10 information:

11 (1) where applicable, the academic excellence
12 indicators adopted under Sections 39.051(b)(1) through (12) [~~(9)~~];

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

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

16 (4) a summary of the district's significant
17 noninstructional expenditures, as determined under Section
18 44.0072; and

19 (5) [~~(4)~~] the district's instructional expenditures
20 ratio and instructional employees ratio computed under Section
21 44.0071, and the statewide average of those ratios, as determined
22 by the commissioner.

23 (d) The commissioner shall develop a methodology for
24 categorizing campuses that have similar demographic
25 characteristics into peer groups for comparison purposes. In
26 establishing criteria to categorize campuses under this section,
27 the commissioner shall consider:

- 1 (1) the percentage of low income or educationally
2 disadvantaged students;
3 (2) the percentage of underrepresented minority
4 populations; and
5 (3) any other factor the commissioner determines
6 appropriate.

7 SECTION 2D.28. Section 39.072, Education Code, is amended by
8 amending Subsection (d) and adding Subsection (c-1) to read as
9 follows:

10 (c-1) A public school campus is subject to Sections 39.1321
11 and 39.1322 if the campus:

12 (1) is rated in the bottom 10 percent in the agency's
13 evaluation under Subsection (c); and

14 (2) does not meet the adequate yearly progress
15 standard determined by the commissioner and approved by the United
16 States Department of Education as provided by the No Child Left
17 Behind Act of 2001 (Pub. L. No. 107-110).

18 (d) Notwithstanding any other provision of this code, for
19 purposes of determining the performance of a school district or
20 open-enrollment charter school under this chapter, including the
21 academic performance rating [~~accreditation status~~] of the district
22 or school, a campus that is a [~~student confined by court order in a~~
23 ~~residential program or~~] facility operated by or under contract with
24 the Texas Youth Commission or a pre-adjudication secure detention
25 facility or a post-adjudication secured correctional facility that
26 is registered with the Texas Juvenile Probation Commission is not
27 considered to be a part [~~student~~] of the school district [~~in which~~

1 ~~the program or facility is physically located]~~ or open-enrollment
2 charter school that operates the campus. The performance of [~~such~~]
3 a student that attends such a campus on an assessment instrument or
4 other academic excellence indicator adopted under Section 39.051
5 shall be determined and [~~r~~] reported, but may not be used to
6 determine the rating of the school district or open-enrollment
7 charter school unless the campus is the only campus operated by the
8 district or school [~~and considered separately from the performance~~
9 ~~of students attending a school of the district in which the program~~
10 ~~or facility is physically located]~~.

11 SECTION 2D.29. Subchapter F, Chapter 39, Education Code, is
12 amended by adding Section 39.113 to read as follows:

13 Sec. 39.113. STATE INCENTIVE PROGRAM FOR IMPROVING STUDENT
14 PERFORMANCE ON AT-RISK CAMPUSES. (a) The commissioner shall adopt
15 rules to create an incentive award system for annual growth in
16 student achievement. A school that achieves incremental growth in
17 student achievement, as described in Subsection (b), is eligible
18 for an award if the school:

19 (1) has a student population of at least 50 percent
20 educationally disadvantaged students;

21 (2) achieves an accreditation performance rating of
22 academically acceptable or better; and

23 (3) demonstrates superior growth in the academic
24 performance of educationally disadvantaged students.

25 (b) The commissioner by rule shall adopt performance
26 criteria to measure annual growth in student academic performance.
27 The commissioner shall consider the following criteria, as

1 applicable:

2 (1) annual growth in student achievement that
3 contributes to closing performance gaps among various populations
4 of students;

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

7 (3) growth in high school completion rates;

8 (4) improvement in student scores on college advanced
9 placement tests; and

10 (5) any other factor that contributes to student
11 achievement.

12 (c) From funds appropriated for the purposes of this
13 section, the commissioner shall award grants to campuses that meet
14 performance criteria adopted under Subsection (b). The
15 commissioner shall allocate awards to campuses not later than
16 December 1 of each year, based on growth in student achievement as
17 measured for the preceding two school years.

18 (c-1) The commissioner shall award grants under this
19 section beginning September 1, 2006. This subsection expires
20 January 1, 2007.

21 (d) At least 75 percent of an award under this section must
22 be used for additional teacher compensation at the campus level.
23 The commissioner by rule shall provide for allocating awards under
24 this subsection, including providing individual awards of at least
25 \$7,500 for each teacher at a campus receiving an award under this
26 subsection.

27 (e) Grants from funds appropriated for the award program may

1 not exceed \$100 million each year except as expressly authorized by
2 the General Appropriations Act or other law.

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

5 SECTION 2D.30. Section 39.131, Education Code, is amended
6 by amending Subsection (a) and adding Subsection (c) to read as
7 follows:

8 (a) If a district does not satisfy the accreditation
9 criteria, the commissioner shall take any of the following actions,
10 listed in order of severity, to the extent the commissioner
11 determines necessary:

12 (1) issue public notice of the deficiency to the board
13 of trustees;

14 (2) order a hearing conducted by the board of trustees
15 of the district for the purpose of notifying the public of the
16 unacceptable performance, the improvements in performance expected
17 by the agency, and the sanctions that may be imposed under this
18 section if the performance does not improve;

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

24 (4) order a hearing to be held before the commissioner
25 or the commissioner's designee at which the president of the board
26 of trustees of the district and the superintendent shall appear and
27 explain the district's low performance, lack of improvement, and

1 plans for improvement;

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

3 (6) appoint an agency monitor to participate in and
4 report to the agency on the activities of the board of trustees or
5 the superintendent;

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

8 (8) appoint a management team to direct the operations
9 of the district in areas of unacceptable performance or require the
10 district to obtain certain services under a contract with another
11 person;

12 (9) if a district has been rated as academically
13 unacceptable for a period of one year or more, appoint a board of
14 managers to exercise the powers and duties of the board of trustees;

15 (10) if a district has been rated as academically
16 unacceptable for a period of two years or more:

17 (A) annex the district to one or more adjoining
18 districts under Section 13.054; or

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

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

26 (A) ordering the development of a dropout
27 prevention plan for approval by the commissioner;

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

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

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

10 (c) The commissioner shall order the closure of all programs
11 operated under the charter of an open-enrollment charter school if
12 a majority of the campuses operated by the charter holder have
13 received an unsatisfactory rating as determined by the commissioner
14 for a period of two years or more.

15 SECTION 2D.31. Subchapter G, Chapter 39, Education Code, is
16 amended by adding Sections 39.1321 and 39.1322 to read as follows:

17 Sec. 39.1321. SANCTIONS FOR LOWEST-PERFORMING CAMPUSES.

18 (a) This section applies only to a campus if the campus:

19 (1) is rated in the bottom 10 percent in the agency's
20 evaluation under Section 39.072(c); and

21 (2) does not meet the adequate yearly progress
22 standard determined by the commissioner and approved by the United
23 States Department of Education as provided by the No Child Left
24 Behind Act of 2001 (Pub. L. No. 107-110).

25 (b) Notwithstanding Sections 39.131 and 39.132, the
26 commissioner:

27 (1) shall take the actions described by this section

1 for a campus described by Subsection (a) that is rated in the bottom
2 five percent in the agency's evaluation under Section 39.072(c);
3 and

4 (2) may take the actions described by this section for
5 any other campus described by Subsection (a).

6 (c) The commissioner shall identify campuses subject to
7 this section under Subsection (b) not later than August 1 following
8 the school year in which the campus was rated. If a campus is rated
9 as described by Subsection (a) for one school year, the
10 commissioner, not later than October 1 after identifying the
11 campus, shall select and assign a technical assistance team to
12 assist the campus in executing a school improvement plan and any
13 other school improvement strategies the commissioner determines
14 appropriate, including providing supplemental services to students
15 as described by the No Child Left Behind Act of 2001 (Pub. L. No.
16 107-110).

17 (d) If a campus is rated as described by Subsection (a) for
18 two consecutive school years, the commissioner shall pursue
19 alternative management under Section 39.1322. The commissioner
20 shall identify a campus subject to this section under Subsection
21 (b) not later than November 1 of the school year following the
22 second consecutive school year in which the campus was rated as
23 described by Subsection (a).

24 Sec. 39.1322. MANAGEMENT OF LOWEST-PERFORMING CAMPUSES.

25 (a) A campus is subject to this section if for two consecutive
26 school years the campus:

27 (1) is rated in the bottom five percent in the agency's

1 evaluation under Section 39.072(c); and

2 (2) does not meet the adequate yearly progress
3 standard determined by the commissioner and approved by the United
4 States Department of Education as provided by the No Child Left
5 Behind Act of 2001 (Pub. L. No. 107-110).

6 (b) The commissioner shall solicit proposals from qualified
7 entities to assume management of a campus subject to this section
8 under a management contract with the agency.

9 (c) If the commissioner determines that the basis for the
10 rating for a campus under Subsection (a) is limited to a specific
11 condition that may be remedied with targeted technical assistance
12 from the agency, the commissioner:

13 (1) may provide the campus a one-year waiver under
14 this section; and

15 (2) shall provide the appropriate technical
16 assistance to remedy the specific condition.

17 (d) The commissioner shall solicit proposals under
18 Subsection (b) not later than November 30 of the school year
19 following the second consecutive school year in which the campus
20 was rated as described by Subsection (a). The commissioner shall
21 notify a qualified entity whose proposal has been accepted to
22 manage a campus under this section not later than the following
23 April 15. Control of the campus management shall be relinquished to
24 the managing entity under this section within a reasonable period
25 after the end of the school year.

26 (e) To qualify for consideration as a managing entity under
27 this section, a person must have:

1 (1) documented success in whole school interventions
2 that increased the educational and performance levels of students
3 in low-performing campuses;

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

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

8 (4) any other factor the commissioner determines
9 necessary.

10 (f) The commissioner may negotiate the term of a management
11 contract for not more than five years with an option to renew the
12 contract. The commissioner shall negotiate a memorandum of
13 understanding between the commissioner, the managing entity, and
14 the board of trustees of the school district in which the campus is
15 located. The memorandum of understanding must have the same term as
16 the management contract and include a provision describing the
17 district's responsibilities in supporting the operation of the
18 campus. The commissioner, as appropriate, may require the district
19 to support the campus in the same manner as the district was
20 required to support the campus before the execution of the
21 management contract.

22 (g) The commissioner shall require a provision, including
23 negotiated performance measures, in the management contract to
24 demonstrate improvement in campus performance. The performance
25 measures must be consistent with the priorities of this chapter.
26 The commissioner shall evaluate the managing entity's performance
27 on the first and second anniversary of the date of the management

1 contract. If the evaluation fails to demonstrate improvement as
2 negotiated under the contract, the commissioner may terminate the
3 management contract for nonperformance or breach of contract and
4 shall solicit proposals from qualified entities to assume
5 management of a campus as provided by this section. If campus
6 performance continues to be rated in the bottom 10 percent in the
7 agency's evaluation under Section 39.072(c) on the third
8 anniversary of the initial contract date or any annual date after
9 that date, the commissioner may terminate the management contract
10 with the managing entity for nonperformance or breach of contract
11 and solicit proposals from qualified entities as provided by this
12 section.

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

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

21 SECTION 2D.32. Subchapter G, Chapter 39, Education Code, is
22 amended by adding Section 39.1371 to read as follows:

23 Sec. 39.1371. INTERVENTION OPERATIONS. (a) The agency is
24 responsible for managing an intervention of a campus subject to
25 sanctions under this subchapter.

26 (b) To be employed as an intervention manager in the school
27 intervention management division, a person must demonstrate:

1 (1) a proven ability to implement whole school
2 interventions that increase the educational and performance levels
3 of students in low-performing campuses;

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

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

8 (4) any other factor the commissioner determines
9 necessary.

10 (c) The agency shall monitor the progress of special campus
11 intervention teams appointed by the commissioner under this
12 subchapter and provide semiannual reports to the commissioner on
13 the status of performance improvement.

14 (d) The agency shall supervise the activities of the
15 management entities under Section 39.1322 and provide semiannual
16 reports to the commissioner on the status of performance
17 improvement.

18 (e) The agency shall:

19 (1) establish by rule and publish school improvement
20 objectives;

21 (2) advocate for the increased use of research-based
22 effective practices; and

23 (3) coordinate campus improvement activities of the
24 agency and regional education service centers.

25 (f) The commissioner may contract for services under this
26 section.

27 SECTION 2D.33. Sections 39.182(a) and (b), Education Code,

1 are amended to read as follows:

2 (a) Not later than December 1 of each year, the agency shall
3 prepare and deliver to the governor, the lieutenant governor, the
4 speaker of the house of representatives, each member of the
5 legislature, the Legislative Budget Board, and the clerks of the
6 standing committees of the senate and house of representatives with
7 primary jurisdiction over the public school system a comprehensive
8 report covering the preceding school year and containing:

9 (1) an evaluation of the achievements of the state
10 educational program in relation to the statutory goals for the
11 public education system under Section 4.002;

12 (2) an evaluation of the status of education in the
13 state as reflected by the academic excellence indicators adopted
14 under Section 39.051;

15 (3) a summary compilation of the percentage of
16 graduating students who attain scores on the end-of-course
17 assessment instruments required under Section 39.023(c) that are
18 equivalent to a passing score on the assessment instrument required
19 under Section 51.3062;

20 (4) a summary compilation of overall student
21 performance on academic skills assessment instruments required by
22 Section 39.023 with the number and percentage of students exempted
23 from the administration of those instruments and the basis of the
24 exemptions, aggregated by grade level, subject area, campus, and
25 district, with appropriate interpretations and analysis, and
26 disaggregated by race, ethnicity, gender, and socioeconomic
27 status;

1 (5) [~~(4)~~] a summary compilation of overall
2 performance of students placed in a disciplinary [~~an~~] alternative
3 education program established under Section 37.008 on academic
4 skills assessment instruments required by Section 39.023 with the
5 number of those students exempted from the administration of those
6 instruments and the basis of the exemptions, aggregated by
7 district, grade level, and subject area, with appropriate
8 interpretations and analysis, and disaggregated by race,
9 ethnicity, gender, and socioeconomic status;

10 (6) [~~(5)~~] a summary compilation of overall performance
11 of students at risk of dropping out of school, as defined by Section
12 29.081(d), on academic skills assessment instruments required by
13 Section 39.023 with the number of those students exempted from the
14 administration of those instruments and the basis of the
15 exemptions, aggregated by district, grade level, and subject area,
16 with appropriate interpretations and analysis, and disaggregated
17 by race, ethnicity, gender, and socioeconomic status;

18 (7) [~~(6)~~] an evaluation of the correlation between
19 student grades and student performance on academic skills
20 assessment instruments required by Section 39.023;

21 (8) [~~(7)~~] a statement of the dropout rate of students
22 in grade levels 7 through 12, expressed in the aggregate and by
23 grade level, and a statement of the completion rates of students for
24 grade levels 9 through 12;

25 (9) [~~(8)~~] a statement of:

26 (A) the completion rate of students who enter
27 grade level 9 and graduate not more than four years later;

1 (B) the completion rate of students who enter
2 grade level 9 and graduate, including students who require more
3 than four years to graduate;

4 (C) the completion rate of students who enter
5 grade level 9 and not more than four years later receive a high
6 school equivalency certificate;

7 (D) the completion rate of students who enter
8 grade level 9 and receive a high school equivalency certificate,
9 including students who require more than four years to receive a
10 certificate; and

11 (E) the number and percentage of all students who
12 have not been accounted for under Paragraph (A), (B), (C), or (D);

13 (10) [~~+9~~] a statement of the projected
14 cross-sectional and longitudinal dropout rates for grade levels 9
15 through 12 for the next five years, assuming no state action is
16 taken to reduce the dropout rate;

17 (11) [~~+10~~] a description of a systematic, measurable
18 plan for reducing the projected cross-sectional and longitudinal
19 dropout rates to five percent or less for the 1997-1998 school year;

20 (12) [~~+11~~] a summary of the information required by
21 Section 29.083 regarding grade level retention of students and
22 information concerning:

23 (A) the number and percentage of students
24 retained; and

25 (B) the performance of retained students on
26 assessment instruments required under Section 39.023(a);

27 (13) [~~+12~~] information, aggregated by district type

1 and disaggregated by race, ethnicity, gender, and socioeconomic
2 status, on:

3 (A) the number of students placed in a
4 disciplinary [~~an~~] alternative education program established under
5 Section 37.008;

6 (B) the average length of a student's placement
7 in a disciplinary [~~an~~] alternative education program established
8 under Section 37.008;

9 (C) the academic performance of students on
10 assessment instruments required under Section 39.023(a) during the
11 year preceding and during the year following placement in a
12 disciplinary [~~an~~] alternative education program; and

13 (D) the dropout rates of students who have been
14 placed in a disciplinary [~~an~~] alternative education program
15 established under Section 37.008;

16 (14) [~~(13)~~] a list of each school district or campus
17 that does not satisfy performance standards, with an explanation of
18 the actions taken by the commissioner to improve student
19 performance in the district or campus and an evaluation of the
20 results of those actions;

21 (15) [~~(14)~~] an evaluation of the status of the
22 curriculum taught in public schools, with recommendations for
23 legislative changes necessary to improve or modify the curriculum
24 required by Section 28.002;

25 (16) [~~(15)~~] a description of all funds received by and
26 each activity and expenditure of the agency;

27 (17) [~~(16)~~] a summary and analysis of the

1 instructional expenditures ratios and instructional employees
2 ratios of school districts computed under Section 44.0071;

3 (18) [~~(17)~~] a summary of the effect of deregulation,
4 including exemptions and waivers granted under Section 7.056 or
5 11.004 [~~39.112~~];

6 (19) [~~(18)~~] a statement of the total number and length
7 of reports that school districts and school district employees must
8 submit to the agency, identifying which reports are required by
9 federal statute or rule, state statute, or agency rule, and a
10 summary of the agency's efforts to reduce overall reporting
11 requirements;

12 (20) [~~(19)~~] a list of each school district that is not
13 in compliance with state special education requirements,
14 including:

15 (A) the period for which the district has not
16 been in compliance;

17 (B) the manner in which the agency considered the
18 district's failure to comply in determining the district's
19 accreditation status; and

20 (C) an explanation of the actions taken by the
21 commissioner to ensure compliance and an evaluation of the results
22 of those actions;

23 (21) [~~(20)~~] a comparison of the performance of
24 open-enrollment charter schools and school districts on the
25 academic excellence indicators specified in Section 39.051(b) and
26 accountability measures adopted under Section 39.051(g), with a
27 separately aggregated comparison of the performance of

1 open-enrollment charter schools predominantly serving students at
2 risk of dropping out of school, as defined by Section 29.081(d),
3 with the performance of school districts; [~~and~~]

4 (22) a statement of the percentage of students scoring
5 at the proficient and advanced levels on the National Assessment of
6 Educational Progress; and

7 (23) [~~(21)~~] any additional information considered
8 important by the commissioner or the State Board of Education.

9 (b) In reporting the information required by Subsection
10 (a) (4) or (5) [~~(a) (3) or (4)~~], the agency may separately aggregate
11 the performance data of students enrolled in a special education
12 program under Subchapter A, Chapter 29, or a bilingual education or
13 special language program under Subchapter B, Chapter 29.

14 SECTION 2D.34. Section 39.183, Education Code, is amended
15 to read as follows:

16 Sec. 39.183. REGIONAL AND DISTRICT LEVEL REPORT. The
17 agency shall prepare and deliver to the governor, the lieutenant
18 governor, the speaker of the house of representatives, each member
19 of the legislature, the Legislative Budget Board, and the clerks of
20 the standing committees of the senate and house of representatives
21 with primary jurisdiction over the public school system a regional
22 and district level report covering the preceding two school years
23 and containing:

24 (1) a summary of school district compliance with the
25 student/teacher ratios and class-size limitations prescribed by
26 Sections 25.111 and 25.112, including:

27 (A) the number of campuses and classes at each

1 campus granted an exception from Section 25.112; and

2 (B) the performance rating under Subchapter D of
3 each campus granted an exception from Section 25.112;

4 (2) a summary of the exemptions and waivers granted to
5 school districts under Section 7.056 or 11.004 [~~39.112~~] and a
6 review of the effectiveness of each campus or district following
7 deregulation;

8 (3) an evaluation of the performance of the system of
9 regional education service centers based on the indicators adopted
10 under Section 8.101 and client satisfaction with services provided
11 under Subchapter B, Chapter 8;

12 (4) an evaluation of accelerated instruction programs
13 offered under Section 28.006, including an assessment of the
14 quality of such programs and the performance of students enrolled
15 in such programs; and

16 (5) the number of classes at each campus that are
17 currently being taught by individuals who are not certified in the
18 content areas of their respective classes.

19 SECTION 2D.35. Section 39.202, Education Code, is amended
20 to read as follows:

21 Sec. 39.202. DEVELOPMENT AND IMPLEMENTATION. (a) The
22 commissioner shall, in consultation with the comptroller, develop
23 and implement a financial accountability rating system for school
24 districts in this state that will:

25 (1) provide additional transparency to public
26 education finance;

27 (2) establish financial accountability standards

1 commensurate with academic standards reaching to the campus level;
2 and

3 (3) enable the commissioner and district
4 administrators to provide meaningful financial oversight and
5 improvement.

6 (b) The system must include standards [~~uniform indicators~~]
7 adopted by the commissioner by which to measure a district's
8 financial management performance. The commissioner shall develop a
9 uniform system for reporting district and campus financial
10 information. The commissioner by rule shall require each district
11 to use standard accepted cost accounting practices for reporting
12 district and campus level expenditures.

13 (c) The uniform system adopted under Subsection (b) must
14 include standards to determine a district's actual financial
15 expenditures for each campus. A district must identify and report
16 each expenditure separately and may not report district-wide
17 averages or use other allocation formulas other than district level
18 expenditures for overhead or administrative costs, which may be
19 allocated to campuses. Required reporting standards include:

20 (1) reporting actual expenditures for personnel
21 employed at the campus, identified separately by administrative,
22 instructional, and support assignments;

23 (2) reporting actual operations and maintenance
24 expenses incurred on the campus;

25 (3) reporting costs allocated to each campus for
26 shared services and district support;

27 (4) identifying expenditures by administrative,

1 instructional, or support services; and

2 (5) any additional information required by the
3 commissioner to ensure reporting of actual educational costs for
4 specific campuses.

5 (d) The commissioner shall develop and implement:

6 (1) procedures based on standards developed under
7 Subsection (c) for reporting campus financial information; and

8 (2) a format for campus financial statements.

9 (e) A district and campus shall report information at least
10 quarterly each year.

11 (f) The essential purposes to be accomplished by the
12 financial accountability system are to:

13 (1) collect, store, and maintain appropriate data that
14 is timely and accurate for administering the public education
15 system;

16 (2) use a software application that provides a
17 comprehensive measurement and control system capable of providing
18 relevant and timely financial performance information as described
19 by Subsection (g);

20 (3) use the measurement and control systems described
21 by Subdivision (2) to evaluate and set appropriate financial
22 performance standards;

23 (4) provide access to financial analysis and reporting
24 to a broad range of interested parties, including agency staff,
25 district administrators and staff, the board of trustees of school
26 districts, state officials, parents, and other public interest
27 groups;

1 (5) allocate appropriate resources to implement and
2 maintain the financial accountability system; and

3 (6) provide longitudinal trend and comparison data at
4 the district and campus levels.

5 (g) The software application used for the financial
6 accountability system under this section must be designed to
7 systematically evaluate school districts, component campuses, and
8 open-enrollment charter schools. The system must:

9 (1) identify a district or campus that achieves a high
10 level of academic performance and operates in a cost-effective
11 manner as a basis for financial best practices analysis and
12 financial performance standards development;

13 (2) provide a timely summary and detailed financial
14 analysis of information for school districts and open-enrollment
15 charter schools;

16 (3) provide information and analysis on student
17 demographics, teacher demographics, and academic performance to
18 correlate with resource allocation;

19 (4) report financial analysis information for all
20 state, region, district, and campus levels;

21 (5) provide information to develop financial and
22 staffing models that accommodate differences in student
23 demographics and regional cost variation, including an analysis of
24 variances to actual costs;

25 (6) collect, store, and maintain at least five years
26 of historical data and perform longitudinal analysis on that data;

27 (7) use individual districts, campuses, and peer

1 groups to compare and rank financial performance results, identify
2 performance gaps, and measure annual progress in closing
3 performance gaps; and

4 (8) provide performance indices and performance
5 levels compatible with the agency's Performance Based Monitoring
6 Analysis System.

7 SECTION 2D.36. Section 39.203(b), Education Code, is
8 amended to read as follows:

9 (b) The annual financial management report must include:

10 (1) a description of the district's financial
11 management performance based on a comparison, provided by the
12 agency, of the district's performance on the standards [~~indicators~~]
13 adopted under Section 39.202 [~~39.202(b)~~] to:

14 (A) state-established standards; and

15 (B) the district's previous performance on the
16 standards adopted under Section 39.202 [~~indicators~~]; [~~and~~]

17 (2) a description of the district's actual
18 expenditures for each campus for the standards described by Section
19 39.202(c) and any difference between those campus expenditures the
20 foundation school program allotments received for the campus;

21 (3) the individual campus financial statements
22 required by Section 39.202; and

23 (4) any descriptive information required by the
24 commissioner.

25 SECTION 2D.37. Chapter 39, Education Code, is amended by
26 adding Subchapter J to read as follows:

27 SUBCHAPTER J. NOTICE OF PERFORMANCE

1 Sec. 39.251. NOTICE IN STUDENT GRADE REPORT. The first
2 written notice of a student's performance that a school district
3 gives during a school year as required by Section 28.022(a) (2) must
4 include the following information:

5 (1) the most recent performance rating of the campus
6 at which the student is enrolled, as determined under Section
7 39.072; and

8 (2) a definition and explanation of each performance
9 rating described by Section 39.072(a).

10 Sec. 39.252. NOTICE ON DISTRICT WEBSITE. Not later than the
11 10th day after the first day of instruction of each school year, a
12 school district that maintains an Internet website shall make the
13 following information available to the public on the website:

14 (1) the information contained in the most recent
15 campus report card for each campus in the district, as determined
16 under Section 39.052;

17 (2) the information contained in the most recent
18 performance report for the district, as determined under Section
19 39.053;

20 (3) the most recent performance rating of the
21 district, as determined under Section 39.072; and

22 (4) a definition and explanation of each performance
23 rating described by Section 39.072(a).

24 SECTION 2D.38. Subchapter A, Chapter 44, Education Code, is
25 amended by adding Section 44.0072 to read as follows:

26 Sec. 44.0072. NONINSTRUCTIONAL EXPENDITURES. (a) Each
27 fiscal year, a school district shall compute and report through the

1 Public Education Information Management System (PEIMS) to the
2 commissioner:

3 (1) the district's significant noninstructional
4 expenditures for the preceding fiscal year, as determined by the
5 commissioner; and

6 (2) any money spent by the district during the
7 preceding fiscal year:

8 (A) on dues or contributions to a
9 noninstructional group, club, committee, organization, or
10 association, including dues or contributions used for the purpose
11 of lobbying; and

12 (B) on expenditures directly to a lobbyist for
13 the sole purpose of lobbying.

14 (b) The commissioner may determine, in a manner consistent
15 with Section 44.0071, whether an expenditure is noninstructional.

16 SECTION 2D.39. Section 51.3062(q), Education Code, is
17 amended to read as follows:

18 (q) A student who has achieved scores [~~a score~~] set by the
19 board on end-of-course assessment instruments [~~an exit-level~~
20 ~~assessment instrument~~] required under Section 39.023 is exempt from
21 the requirements of this section. The exemption is effective for
22 the three-year period following the date a student takes the last
23 assessment instrument required for purposes of this section and
24 achieves the standard set by the board. This subsection does not
25 apply during any period for which the board designates the
26 end-of-course assessment instruments [~~exit-level assessment~~
27 ~~instrument~~] required under Section 39.023 as the primary assessment

1 instrument under this section, except that the three-year period
2 described by this subsection remains in effect for students who
3 qualify for an exemption under this subsection [~~section~~] before
4 that period.

5 SECTION 2D.40. (a) Not later than the 2006-2007 school
6 year, the Texas Education Agency shall collect information
7 concerning:

8 (1) the measure of progress toward English language
9 proficiency for purposes of Section 39.051(b)(7), Education Code,
10 as amended by this Act; and

11 (2) value-added student achievement for purposes of
12 Section 39.051(b)(8), Education Code, as amended by this Act.

13 (b) Not later than the 2007-2008 school year, the Texas
14 Education Agency shall include, in evaluating the performance of
15 school districts, campuses, and open-enrollment charter schools
16 under Subchapter D, Chapter 39, Education Code:

17 (1) the measure of progress toward English language
18 proficiency under Section 39.051(b)(7), Education Code, as amended
19 by this Act; and

20 (2) value-added student achievement under Section
21 39.051(b)(8), Education Code, as amended by this Act.

22 SECTION 2D.41. The commissioner of education shall:

23 (1) develop a methodology for categorizing campuses
24 for comparison purposes under Section 39.052(d), Education Code, as
25 added by this Act, not later than January 1, 2006; and

26 (2) develop and implement the reporting procedures
27 for:

1 (A) districts to prepare and distribute annual
2 financial management reports under Section 39.203, Education Code,
3 as amended by this Act, beginning with the 2006-2007 school year;
4 and

5 (B) campuses to provide financial information
6 under Section 39.202, Education Code, as amended by this Act,
7 beginning with the 2007-2008 school year.

8 PART E. BILINGUAL EDUCATION AND SPECIAL LANGUAGE PROGRAMS

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

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

20 SECTION 2E.02. Section 29.056(g), Education Code, is
21 amended to read as follows:

22 (g) A district may transfer a student of limited English
23 proficiency out of a bilingual education or special language
24 program for the first time or a subsequent time if the student is
25 able to participate equally in a regular all-English instructional
26 program as determined by:

27 (1) tests administered at the end of each school year

1 to determine the extent to which the student has developed oral and
2 written language proficiency and specific language skills in both
3 the student's primary language and English;

4 (2) satisfactory performance on the reading
5 assessment instrument under Section 39.023(a) or the English I or
6 II assessment instrument under Section 39.023(c), as applicable,
7 with the assessment instrument administered in English, or, if the
8 student is enrolled in the first or second grade, an achievement
9 score at or above the 40th percentile in the reading and language
10 arts sections of an English standardized test approved by the
11 agency; and

12 (3) other indications of a student's overall progress,
13 including criterion-referenced test scores, subjective teacher
14 evaluation, and parental evaluation.

15 SECTION 2E.03. Subchapter B, Chapter 29, Education Code, is
16 amended by adding Section 29.0561 to read as follows:

17 Sec. 29.0561. CONSIDERATION; REENROLLMENT. (a) For the
18 first two school years after a student is transferred out of a
19 bilingual education or special language program under Section
20 29.056(g), the language proficiency assessment committee shall
21 consider:

22 (1) the total amount of time the student has been
23 enrolled in a bilingual education or special language program;

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

26 (3) the student's performance on each assessment
27 instrument required under Section 39.023(a) or (c);

1 (4) the number of credits toward high school
2 graduation the student has earned, as applicable; and
3 (5) any disciplinary actions taken against the student
4 under Subchapter A, Chapter 37.

5 (b) If, during any grading period during the first two
6 school years after a student is transferred out of a bilingual
7 education or special language program under Section 29.056(g), the
8 student earns a failing grade in a subject in the foundation
9 curriculum under Section 28.002(a)(1), the language proficiency
10 assessment committee shall reevaluate the student to determine if
11 the student should reenroll in the bilingual education or special
12 language program. Based on the reevaluation, the committee may
13 arrange for intensive instruction for the student or may reenroll
14 the student in the program.

15 SECTION 2E.04. Subchapter B, Chapter 29, Education Code, is
16 amended by adding Section 29.065 to read as follows:

17 Sec. 29.065. MEASURE OF PROGRESS TOWARD ENGLISH LANGUAGE
18 PROFICIENCY. The commissioner by rule shall develop a longitudinal
19 measure of progress toward English language proficiency under which
20 a student of limited English proficiency is evaluated from the time
21 the student enters public school until, for two consecutive school
22 years, the student scores at a specific level determined by the
23 commissioner on the reading assessment instrument under Section
24 39.023(a) or the English I or II assessment instrument under
25 Section 39.023(c), as applicable. The commissioner shall:

26 (1) as part of the measure of progress, include
27 student advancement from one proficiency level to a higher level

1 under the reading proficiency in English assessment system
2 developed under Section 39.027(e) and from the highest level under
3 that assessment system to the level determined by the commissioner
4 under this section on the reading assessment instrument under
5 Section 39.023(a) or the English I or II assessment instrument
6 under Section 39.023(c), as applicable; and

7 (2) to the extent practicable in developing the
8 measure of progress, use applicable research and analysis done in
9 developing an annual measurable achievement objective as required
10 by Section 3122, No Child Left Behind Act of 2001 (20 U.S.C. Section
11 6842).

12 SECTION 2E.05. Sections 39.072(b) and (c), Education Code,
13 are amended to read as follows:

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

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

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

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

27 (C) an item listed in Sections

1 7.056(e) (3) (C)-(I) that applies to the district;

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

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

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

16 SECTION 2E.06. Sections 39.073(a) and (b), Education Code,
17 are amended to read as follows:

18 (a) The agency shall annually review the performance of each
19 district and campus on the indicators adopted under Sections
20 39.051(b) (1) through (10) [~~(7)~~] and determine if a change in the
21 accreditation status of the district is warranted. The
22 commissioner may determine how all indicators adopted under Section
23 39.051(b) may be used to determine accountability ratings and to
24 select districts and campuses for acknowledgment.

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

- 1 (1) standards established for each indicator;
2 (2) required improvement as defined under Section
3 39.051(c); and
4 (3) comparable improvement as defined by Section
5 39.051(c).

6 SECTION 2E.07. Section 39.074(e), Education Code, is
7 amended to read as follows:

8 (e) If an annual review indicates low performance on one or
9 more of the indicators under Sections 39.051(b) (1) through (10)
10 [~~(7)~~] of one or more campuses in a district, the agency may conduct
11 an on-site evaluation of those campuses only.

12 PART F. HIGH ACADEMIC ACHIEVEMENT PROGRAMS

13 SECTION 2F.01. Subchapter D, Chapter 29, Education Code, is
14 amended by adding Section 29.127 to read as follows:

15 Sec. 29.127. 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 Texas
20 governor's school program may include any or all of the following
21 educational 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 for the purpose, the
21 commissioner may make a grant to pay the costs of administering a
22 Texas governor's school program to a public senior college or
23 university whose application is approved under this section.

24 (f) The commissioner may adopt other rules necessary to
25 implement this section.

26 SECTION 2F.02. Section 39.051, Education Code, is amended
27 by adding Subsection (b-1) to read as follows:

1 (b-1) In addition to the indicators adopted under
2 Subsection (b), the State Board of Education shall adopt the
3 following indicators relating to high academic achievement to be
4 considered in assigning a district an exemplary performance rating
5 under Section 39.072:

6 (1) the percentage of students, disaggregated by race,
7 ethnicity, gender, and socioeconomic status, who are enrolled in an
8 educational program for gifted and talented students;

9 (2) student results on advanced placement and
10 international baccalaureate examinations, including the percentage
11 of students scoring three or higher on the advanced placement
12 examinations and the percentage of students scoring four or higher
13 on the international baccalaureate examinations;

14 (3) student results on the Scholastic Assessment Test
15 (SAT) and the American College Test (ACT);

16 (4) the percentage of students scoring in the top five
17 percent on nationally recognized norm-referenced assessment
18 instruments;

19 (5) the percentage of high school students enrolled in
20 an advanced course;

21 (6) the percentage of students achieving commended
22 performance, as determined by the State Board of Education, on an
23 assessment instrument required under Section 39.023(a), (c), or
24 (1);

25 (7) the percentage of students completing the
26 recommended or advanced high school program established under
27 Section 28.025; and

1 (8) the percentage of the district's graduating
2 students who enroll in an institution of higher education for the
3 academic year following graduation.

4 SECTION 2F.03. Section 39.053(a), Education Code, is
5 amended to read as follows:

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

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

14 (2) the performance rating for the district as
15 provided under Section 39.072(a) and the performance rating of each
16 campus in the district as provided under Section 39.072(c);

17 (3) the district's current special education
18 compliance status with the agency;

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

23 (5) information concerning school violence prevention
24 and violence intervention policies and procedures that the district
25 is using to protect students; ~~and~~

26 (6) the findings that result from evaluations
27 conducted under the Safe and Drug-Free Schools and Communities Act

1 of 1994 (20 U.S.C. Section 7101 et seq.) and its subsequent
2 amendments; [~~and~~]

3 (7) information received under Section 51.403(e) for
4 each high school campus in the district, presented in a form
5 determined by the commissioner; and

6 (8) information relating to high academic achievement
7 in the district, as determined by the district's performance on the
8 indicators under Section 39.051(b-1).

9 SECTION 2F.04. Section 39.072, Education Code, is amended
10 by adding Subsection (c-1) to read as follows:

11 (c-1) For purposes of assigning a district, campus, or
12 open-enrollment charter school a performance rating of exemplary
13 under this section, the agency shall consider the district's,
14 campus's, or school's performance on the indicators relating to
15 high academic achievement under Section 39.051(b-1). This
16 information is in addition to any other indicators or factors
17 considered by the agency in assigning a performance rating.

18 SECTION 2F.05. Section 39.0721(c), Education Code, is
19 amended to read as follows:

20 (c) The performance standards on which a gold performance
21 rating is based should include:

22 (1) student proficiency on:

23 (A) assessment instruments administered under
24 Sections 39.023(a), (c), and (1); and

25 (B) other measures of proficiency determined by
26 the commissioner;

27 (2) student performance on one or more nationally

1 recognized norm-referenced assessment instruments;

2 (3) improvement in student performance;

3 (4) performance on indicators relating to high

4 academic achievement under Section 39.051(b-1);

5 (5) [~~(4)~~] in the case of middle or junior high school

6 campuses, student proficiency in mathematics, including algebra;

7 and

8 (6) [~~(5)~~] in the case of high school campuses:

9 (A) the extent to which graduating students are

10 academically prepared to attend institutions of higher education;

11 (B) the percentage of students who take advanced

12 placement tests and student performance on those tests; and

13 (C) the percentage of students who take and

14 successfully complete advanced academic courses or college-level

15 course work offered through dual credit programs provided under

16 agreements between high schools and institutions of higher

17 education.

18 SECTION 2F.06. (a) Not later than the 2006-2007 school

19 year, the Texas Education Agency shall collect information

20 concerning high academic achievement for purposes of Section

21 39.051(b-1), Education Code, as added by this Act.

22 (b) Not later than the 2007-2008 school year, the Texas

23 Education Agency shall include information concerning high

24 academic achievement for purposes of Section 39.051(b-1),

25 Education Code, as added by this Act, in evaluating the performance

26 of school districts, campuses, and open-enrollment charter schools

27 under Subchapter D, Chapter 39, Education Code.

1 (c) Not later than the 2007-2008 school year, the Texas
2 Education Agency shall include the information required by Section
3 39.182(a) (21), Education Code, as amended by this Act, in the
4 agency's comprehensive annual report under Section 39.182,
5 Education Code.

6 PART G. PREKINDERGARTEN PROGRAMS

7 SECTION 2G.01. Section 29.1532, Education Code, is amended
8 by amending Subsection (b) and adding Subsections (d) and (e) to
9 read as follows:

10 (b) A [~~If a~~] school [~~district contracts with a private~~
11 ~~entity for the operation of the~~] district's prekindergarten
12 program, including a program operated by a private entity
13 contracting with the district, [~~the program~~] must at a minimum
14 comply with the applicable child-care licensing standards adopted
15 by the Department of Family and Protective [~~and Regulatory~~]
16 Services under Section 42.042, Human Resources Code. The State
17 Board of Education shall adopt rules designed to ensure the school
18 district's compliance with the standards.

19 (d) Before a school district may implement a
20 prekindergarten program, the district shall:

21 (1) investigate the possibility of sharing program
22 sites with existing child-care programs licensed by the Department
23 of Family and Protective Services and existing federal Head Start
24 programs; and

25 (2) coordinate use of any sites to the greatest extent
26 possible.

27 (e) A school district shall implement to the greatest extent

1 possible coordinated use of licensed child-care and Head Start
2 sites with existing prekindergarten programs.

3 SECTION 2G.02. A school district's prekindergarten program
4 established before September 1, 2005, is not required to comply
5 with the applicable child-care standards adopted by the Department
6 of Family and Protective Services, as required by Section
7 29.1532(b), Education Code, as amended by this Act, until September
8 1, 2008.

9 PART H. CHARTER SCHOOLS

10 SECTION 2H.01. Section 12.1054, Education Code, is amended by
11 adding Subsection (a-1) to read as follows:

12 (a-1) Section 11.170 applies to a member of the governing
13 body of a charter holder or a member of the governing body of an
14 open-enrollment charter school.

15 ARTICLE 3. CONFORMING AMENDMENTS

16 SECTION 3.01. Section 7.024(a), Education Code, is amended
17 to read as follows:

18 (a) The investment capital fund consists of money
19 appropriated by the legislature for that purpose [~~transferred to~~
20 ~~the fund as provided by Section 42.152(1)~~]. The agency shall
21 administer the fund. The purposes of this fund are to assist
22 eligible public schools to implement practices and procedures
23 consistent with deregulation and school restructuring in order to
24 improve student achievement and to help schools identify and train
25 parents and community leaders who will hold the school and the
26 school district accountable for achieving high academic standards.

27 SECTION 3.02. Section 7.055(b) (34), Education Code, is

1 amended to read as follows:

2 (34) The commissioner shall perform duties in
3 connection with equalization actions [~~the equalized wealth level~~]
4 under Chapter 41.

5 SECTION 3.03. Section 8.051(d), Education Code, is amended
6 to read as follows:

7 (d) Each regional education service center shall maintain
8 core services for purchase by school districts and campuses. The
9 core services are:

10 (1) training and assistance in teaching each subject
11 area assessed under Section 39.023;

12 (2) training and assistance in providing:

13 (A) each program that qualifies for a funding
14 allotment under Section 42.151, 42.152, or 42.153 [~~, or 42.156~~]; or

15 (B) a gifted and talented program under
16 Subchapter D, Chapter 29;

17 (3) assistance specifically designed for a school
18 district rated academically unacceptable under Section 39.072(a)
19 or a campus whose performance is considered unacceptable based on
20 the indicators adopted under Section 39.051;

21 (4) training and assistance to teachers,
22 administrators, members of district boards of trustees, and members
23 of site-based decision-making committees;

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

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

2 SECTION 3.04. Section 11.158(a), Education Code, is amended
3 to read as follows:

4 (a) The board of trustees of an independent school district
5 may require payment of:

6 (1) a fee for materials used in any program in which
7 the resultant product in excess of minimum requirements becomes, at
8 the student's option, the personal property of the student, if the
9 fee does not exceed the cost of materials;

10 (2) membership dues in student organizations or clubs
11 and admission fees or charges for attending extracurricular
12 activities, if membership or attendance is voluntary;

13 (3) a security deposit for the return of materials,
14 supplies, or equipment;

15 (4) a fee for personal physical education and athletic
16 equipment and apparel, although any student may provide the
17 student's own equipment or apparel if it meets reasonable
18 requirements and standards relating to health and safety
19 established by the board;

20 (5) a fee for items of personal use or products that a
21 student may purchase at the student's option, such as student
22 publications, class rings, annuals, and graduation announcements;

23 (6) a fee specifically permitted by any other statute;

24 (7) a fee for an authorized voluntary student health
25 and accident benefit plan;

26 (8) a reasonable fee, not to exceed the actual annual
27 maintenance cost, for the use of musical instruments and uniforms

1 owned or rented by the district;

2 (9) a fee for items of personal apparel that become the
3 property of the student and that are used in extracurricular
4 activities;

5 (10) a parking fee or a fee for an identification card;

6 (11) a fee for a driver training course, not to exceed
7 the actual district cost per student in the program for the current
8 school year;

9 (12) a fee for a course offered for credit that
10 requires the use of facilities not available on the school premises
11 or the employment of an educator who is not part of the school's
12 regular staff, if participation in the course is at the student's
13 option;

14 (13) a fee for a course offered during summer school,
15 except that the board may charge a fee for a course required for
16 graduation only if the course is also offered without a fee during
17 the regular school year;

18 (14) a reasonable fee for transportation of a student
19 who lives within two miles of the school the student attends to and
20 from that school[, ~~except that the board may not charge a fee for~~
21 ~~transportation for which the school district receives funds under~~
22 ~~Section 42.155(d)~~]; or

23 (15) a reasonable fee, not to exceed \$50, for costs
24 associated with an educational program offered outside of regular
25 school hours through which a student who was absent from class
26 receives instruction voluntarily for the purpose of making up the
27 missed instruction and meeting the level of attendance required

1 under Section 25.092.

2 SECTION 3.05. Section 12.013(b), Education Code, is amended
3 to read as follows:

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

5 (1) a provision of this title establishing a criminal
6 offense;

7 (2) a provision of this title relating to limitations
8 on liability; and

9 (3) 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) to the extent necessary to monitor compliance with
14 this subchapter as determined by the commissioner;

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

17 (C) criminal history records under Subchapter C,
18 Chapter 22;

19 (D) student admissions under Section 25.001;

20 (E) school attendance under Sections 25.085,
21 25.086, and 25.087;

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

24 (G) elementary class size limits under Section
25 25.112, in the case of any campus in the district that is considered
26 low-performing under Section 39.132;

27 (H) high school graduation under Section 28.025;

- 1 (I) special education programs under Subchapter
2 A, Chapter 29;
- 3 (J) bilingual education under Subchapter B,
4 Chapter 29;
- 5 (K) prekindergarten programs under Subchapter E,
6 Chapter 29;
- 7 (L) safety provisions relating to the
8 transportation of students under Sections 34.002, 34.003, 34.004,
9 and 34.008;
- 10 (M) computation and distribution of state aid
11 under Chapters 31, 42, and 43;
- 12 (N) extracurricular activities under Section
13 33.081;
- 14 (O) health and safety under Chapter 38;
- 15 (P) public school accountability under
16 Subchapters B, C, D, and G, Chapter 39;
- 17 (Q) equalization [~~equalized wealth~~] under
18 Section 42.401 [~~Chapter 41~~];
- 19 (R) a bond or other obligation or tax rate under
20 Chapters 42, 43, and 45; and
- 21 (S) purchasing under Chapter 44.

22 SECTION 3.06. Section 12.106(a), Education Code, is amended
23 to read as follows:

24 (a) A charter holder is entitled to receive for the
25 open-enrollment charter school funding under Chapter 42 as if the
26 school were a school district without a tier one local share for
27 purposes of Section 42.306 [~~42.253~~] and without any local revenue

1 ("LR") for purposes of Section 42.252 [~~42.302~~]. In determining
2 funding for an open-enrollment charter school:

3 (1) the adjustment [~~, adjustments~~] under Section
4 42.301 is [~~Sections 42.102, 42.103, 42.104, and 42.105 and the~~
5 ~~district enrichment tax rate ("DTR") under Section 42.302 are based~~
6 ~~on~~] the [average] adjustment, if any, for the school district in
7 which the school is located;

8 (2) the adjustments under Sections 42.302 and 42.303
9 are the average adjustments under those sections for the state; and

10 (3) the district enrichment tax rate under Section
11 42.252 is the average district enrichment tax rate for the state, as
12 estimated at the beginning of the school year, and provided that the
13 amount of state funding for each student is not subject to
14 adjustment after the beginning of the school year due to changes in
15 the property value or collection rates for the state.

16 SECTION 3.07. 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 3.08. 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 3.09. 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 3.10. 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 3.11. 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 3.12. Section 21.413(h), Education Code, as added
26 by Section 2, Chapter 430, Acts of the 78th Legislature, Regular
27 Session, 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 3.13. Section 22.004(c), Education Code, is amended
12 to read as follows:

13 (c) The cost of the coverage provided under the program
14 described by Subsection (a) shall be paid by the state, the
15 district, and the employees in the manner provided by Chapter 1579
16 [~~Article 3.50-7~~], Insurance Code. The cost of coverage provided
17 under a plan adopted under Subsection (b) shall be shared by the
18 employees and the district using the contributions by the state
19 described by Subchapter F, Chapter 1579 [~~Section 9, Article~~
20 ~~3.50-7~~], Insurance Code[, ~~or by Article 3.50-8, Insurance Code~~].

21 SECTION 3.14. Section 29.008(b), Education Code, is amended
22 to read as follows:

23 (b) Except as provided by Subsection (c), costs of an
24 approved contract for residential placement may be paid from a
25 combination of federal, state, and local funds. The local share of
26 the total contract cost for each student is that portion of the
27 local tax effort that exceeds the district's local share [~~fund~~

1 ~~assignment~~] under Section 42.306 [~~42.252~~], divided by the average
2 daily attendance in the district. If the contract involves a
3 private facility, the state share of the total contract cost is that
4 amount remaining after subtracting the local share. If the
5 contract involves a public facility, the state share is that amount
6 remaining after subtracting the local share from the portion of the
7 contract that involves the costs of instructional and related
8 services. For purposes of this subsection, "local tax effort"
9 means the total amount of money generated by taxes imposed for debt
10 service and maintenance and operation less any amounts paid into a
11 tax increment fund under Chapter 311, Tax Code.

12 SECTION 3.15. Section 29.014(d), Education Code, is amended
13 to read as follows:

14 (d) The accreditation [~~basic~~] allotment for a student
15 enrolled in a district to which this section applies is adjusted by:

16 (1) the cost of education adjustment under Section
17 42.301 [~~42.102~~] for the school district in which the district is
18 geographically located; and

19 (2) any other appropriate factor adopted by the
20 commissioner [~~the weight for a homebound student under Section~~
21 ~~42.151(a)~~].

22 SECTION 3.16. Section 29.087(j), Education Code, is amended
23 to read as follows:

24 (j) For purposes of funding under Chapters [~~41, 42~~] and
25 46, a student attending a program authorized by this section may be
26 counted in attendance only for the actual number of hours each
27 school day the student attends the program, in accordance with

1 Sections 25.081 and 25.082.

2 SECTION 3.17. Section 29.203(b), Education Code, is amended
3 to read as follows:

4 (b) A school district is entitled to the allotment provided
5 by Section 42.155 [~~42.157~~] for each eligible student using a public
6 education grant. [~~If the district has a wealth per student greater
7 than the guaranteed wealth level but less than the equalized wealth
8 level, a school district is entitled under rules adopted by the
9 commissioner to additional state aid in an amount equal to the
10 difference between the cost to the district of providing services
11 to a student using a public education grant and the sum of the state
12 aid received because of the allotment under Section 42.157 and
13 money from the available school fund attributable to the student.]~~

14 SECTION 3.18. Effective September 1, 2006, Section
15 31.025(a), Education Code, is amended to read as follows:

16 (a) The State Board of Education shall set a limit on the
17 cost that may be paid using the allotment provided by Section 42.241
18 [~~from the state textbook fund~~] for a textbook placed on the
19 conforming or nonconforming list for a particular subject and grade
20 level. The board may not reject a textbook for placement on the
21 conforming or nonconforming list because the textbook's price
22 exceeds the limit established under this subsection.

23 SECTION 3.19. Effective September 1, 2006, Section 31.1031,
24 Education Code, is amended to read as follows:

25 Sec. 31.1031. SHORTAGE OF REQUISITIONED TEXTBOOKS. If a
26 school district or open-enrollment charter school does not have a
27 sufficient number of copies of a textbook used by the district or

1 school for use during the following school year, and a sufficient
2 number of additional copies will not be available from the
3 depository or the publisher within the time specified by Section
4 31.151(a) (8), the district or school is entitled to:

5 (1) be reimbursed by the state [~~from the state~~
6 ~~textbook fund~~], at a rate and in the manner provided by State Board
7 of Education or commissioner rule, for the purchase of a sufficient
8 number of used adopted textbooks; or

9 (2) return currently used textbooks to the
10 commissioner in exchange for sufficient copies, if available, of
11 other textbooks on the conforming or nonconforming list to be used
12 during the following school year.

13 SECTION 3.20. Effective September 1, 2006, Section 31.105,
14 Education Code, is amended to read as follows:

15 Sec. 31.105. SALE OF TEXTBOOKS. The board of trustees of a
16 school district or governing body of an open-enrollment charter
17 school may sell textbooks, other than electronic textbooks, to a
18 student or another school at the state contract price. Money [~~The~~
19 ~~district shall send money~~] from the sale of textbooks may be used
20 only to purchase items that may be purchased lawfully using the
21 allotment provided by Section 42.241 [~~to the commissioner as~~
22 ~~required by the commissioner. The commissioner shall deposit the~~
23 ~~money in the state textbook fund~~].

24 SECTION 3.21. Effective September 1, 2006, Section
25 31.151(d), Education Code, is amended to read as follows:

26 (d) A penalty collected under this section shall be
27 deposited to the credit of the Texas education [~~state textbook~~]

1 fund.

2 SECTION 3.22. Effective September 1, 2006, Section
3 31.152(b), Education Code, is amended to read as follows:

4 (b) A school trustee, administrator, or teacher commits an
5 offense if the person accepts a gift, favor, or service that:

6 (1) is given to the person or the person's school;

7 (2) might reasonably tend to influence a trustee,
8 administrator, or teacher in the selection of a textbook; and

9 (3) could not be lawfully purchased with funds from
10 the allotment provided by Section 42.241 [~~state textbook fund~~].

11 SECTION 3.23. Section 32.005, Education Code, is amended by
12 amending Subsection (a) and adding Subsection (d) to read as
13 follows:

14 (a) Each school district is entitled to an allotment of \$70
15 [~~\$30~~] for each student in average daily attendance or a different
16 amount for any year provided by appropriation.

17 (d) This section expires August 1, 2006.

18 SECTION 3.24. Section 32.161(b), Education Code, is amended
19 to read as follows:

20 (b) To the extent possible considering other statutory
21 requirements, the commissioner and agency shall encourage the use
22 of textbook funds and any other funds provided to school districts
23 for technology [~~and technology allotment funds under Section~~
24 ~~31.021(b)(2)~~] in a manner that facilitates the development and use
25 of the portal.

26 SECTION 3.25. Section 34.002(c), Education Code, is amended
27 to read as follows:

1 (c) A school district that fails or refuses to meet the
2 safety standards for school buses established under this section is
3 ineligible to share in the transportation allotment under
4 Subchapter D, Chapter 42, [~~Section 42.155~~] until the first
5 anniversary of the date the district begins complying with the
6 safety standards.

7 SECTION 3.26. Section 37.0061, Education Code, is amended
8 to read as follows:

9 Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN
10 JUVENILE RESIDENTIAL FACILITIES. A school district that provides
11 education services to pre-adjudicated and post-adjudicated
12 students who are confined by court order in a juvenile residential
13 facility operated by a juvenile board is entitled to count such
14 students in the district's average daily attendance for purposes of
15 receipt of state funds under the Foundation School Program. [~~If the
16 district has a wealth per student greater than the guaranteed
17 wealth level but less than the equalized wealth level, the district
18 in which the student is enrolled on the date a court orders the
19 student to be confined to a juvenile residential facility shall
20 transfer to the district providing education services an amount
21 equal to the difference between the average Foundation School
22 Program costs per student of the district providing education
23 services and the sum of the state aid and the money from the
24 available school fund received by the district that is attributable
25 to the student for the portion of the school year for which the
26 district provides education services to the student.~~]

27 SECTION 3.27. Section 39.031, Education Code, is amended to

1 read as follows:

2 Sec. 39.031. COST. (a) The commissioner shall set aside an
3 appropriate amount from the Foundation School Program to pay the
4 cost of preparing, administering, or grading the assessment
5 instruments and the [~~shall be paid from the funds allotted under~~
6 ~~Section 42.152, and each district shall bear the cost in the same~~
7 ~~manner described for a reduction in allotments under Section~~
8 ~~42.253. If a district does not receive an allotment under Section~~
9 ~~42.152, the commissioner shall subtract the cost from the~~
10 ~~district's other foundation school fund allotments.~~]

11 [~~(b) The~~] cost of releasing the question and answer keys
12 under Section 39.023(e) [~~shall be paid from amounts appropriated to~~
13 ~~the agency~~].

14 (b) After setting aside an appropriate amount in accordance
15 with this section, the commissioner shall reduce each district's
16 tier one allotments proportionately. A reduction in tier one
17 allotments under this subsection does not affect the computation of
18 the guaranteed amount of revenue per student per cent of tax effort
19 under Section 42.252.

20 (c) Any amount set aside under this section must be approved
21 by the Legislative Budget Board and the governor's office of
22 budget, planning, and policy.

23 SECTION 3.28. Section 39.134, Education Code, is amended to
24 read as follows:

25 Sec. 39.134. COSTS PAID BY DISTRICT. The costs of providing
26 a monitor, conservator, management team, or special campus
27 intervention team shall be paid by the district. If the district

1 fails or refuses to pay the costs in a timely manner, the
2 commissioner may:

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

5 (2) recover the amount of the costs in the manner
6 provided for recovery of an overallocation of state funds under
7 Section [42.317](#) [~~42.258~~].

8 SECTION 3.29. Section 43.002(b), Education Code, is amended
9 to read as follows:

10 (b) Of the amounts available for transfer from the general
11 revenue fund to the available school fund for the months of January
12 and February of each fiscal year, no more than the amount necessary
13 to enable the comptroller to distribute from the available school
14 fund an amount equal to 9-1/2 percent of the estimated annual
15 available school fund apportionment to category 1 school districts,
16 as defined by Section [42.316](#) [~~42.259~~], and 3-1/2 percent of the
17 estimated annual available school fund apportionment to category 2
18 school districts, as defined by Section [42.316](#) [~~42.259~~], may be
19 transferred from the general revenue fund to the available school
20 fund. Any remaining amount that would otherwise be available for
21 transfer for the months of January and February shall be
22 transferred from the general revenue fund to the available school
23 fund in equal amounts in June and in August of the same fiscal year.

24 SECTION 3.30. Section 44.004, Education Code, is amended by
25 amending Subsections (b), (e), and (i) and adding Subsections (b-1)
26 and (b-2) to read as follows:

27 (b) Except as provided by Subsection (b-2), the [~~The~~]

1 president shall provide for the publication of notice of the budget
2 and proposed tax rate meeting in a daily, weekly, or biweekly
3 newspaper published in the district. If no daily, weekly, or
4 biweekly newspaper is published in the district, the president
5 shall provide for the publication of notice in at least one
6 newspaper of general circulation in the county in which the
7 district's central administrative office is located. Notice under
8 this subsection shall be published not earlier than the 30th day or
9 later than the 10th day before the date of the hearing.

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 (b-2) Instead of publishing notice in the manner prescribed
15 by Subsection (b), a school district may publish the required
16 notice on its Internet website not earlier than the 30th day or
17 later than the 10th day before the date of the hearing. A school
18 district that publishes notice under this subsection must have a
19 link on its Internet website that is clearly identified as the link
20 to the public notice for the budget and proposed tax rate meeting.

21 (e) A person who owns taxable property in a school district
22 is entitled to an injunction restraining the collection of taxes by
23 the district if the district has not complied with the requirements
24 of Subsections (b), (b-1), and (b-2) [~~(c)~~], and [~~(d)~~, and], if
25 applicable, Subsection (i), and the failure to comply was not in
26 good faith. An action to enjoin the collection of taxes must be
27 filed before the date the school district delivers substantially

1 all of its tax bills.

2 (i) A school district that uses a certified estimate, as
3 authorized by Subsection (h), may adopt a budget at the public
4 meeting designated in the notice prepared using the estimate, but
5 the district may not adopt a tax rate before the district receives
6 the certified appraisal roll for the district required by Section
7 26.01(a), Tax Code. After receipt of the certified appraisal roll,
8 the district must publish a revised notice and hold another public
9 meeting before the district may adopt a tax rate that exceeds:

10 (1) the rate proposed in the notice prepared using the
11 estimate; or

12 (2) the district's rollback rate determined under
13 Section 26.08, Tax Code, if applicable, using the certified
14 appraisal roll.

15 SECTION 3.31. Section 46.003(a), Education Code, is amended
16 to read as follows:

17 (a) For each year, except as provided by Sections 46.005 and
18 46.006, a school district is guaranteed a specified amount per
19 student in state and local funds for each cent of tax effort, up to
20 the maximum rate under Subsection (b), to pay the principal of and
21 interest on eligible bonds issued to construct, acquire, renovate,
22 or improve an instructional facility. The amount of state support
23 is determined by the formula:

24
$$\text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

25 where:

26 "FYA" is the guaranteed facilities yield amount of state
27 funds allocated to the district for the year;

1 "FYL" is the dollar amount guaranteed level of state and
2 local funds per student per cent of tax effort, which is \$35 or a
3 greater amount for any year provided by appropriation;

4 "ADA" is the greater of the number of students in average
5 daily attendance, as determined under Section 42.005, in the
6 district or 400;

7 "BTR" is the district's bond tax rate for the current year,
8 which is determined by dividing the amount budgeted by the district
9 for payment of eligible bonds by the quotient of the district's
10 taxable value of property as determined under Subchapter M, Chapter
11 403, Government Code, [~~or, if applicable, Section 42.2521,~~] divided
12 by 100; and

13 "DPV" is the district's taxable value of property as
14 determined under Subchapter M, Chapter 403, Government Code [~~, or,~~
15 ~~if applicable, Section 42.2521~~].

16 SECTION 3.32. Section 46.006(g), Education Code, is amended
17 to read as follows:

18 (g) In this section, "wealth per student" means a school
19 district's taxable value of property as determined under Subchapter
20 M, Chapter 403, Government Code, [~~or, if applicable, Section~~
21 ~~42.2521,~~] divided by the district's average daily attendance as
22 determined under Section 42.005.

23 SECTION 3.33. Sections 46.009(b), (e), and (f), Education
24 Code, are amended to read as follows:

25 (b) If the amount appropriated for purposes of this
26 subchapter for a year is less than the total amount determined under
27 Subsection (a) for that year, the commissioner shall:

1 (1) transfer from the Foundation School Program to the
2 instructional facilities program the amount by which the total
3 amount determined under Subsection (a) exceeds the amount
4 appropriated; and

5 (2) reduce each district's Texas education [~~foundation~~
6 ~~school~~] fund allocations in the manner provided by Section
7 42.313(f) [~~42.253(h)~~].

8 (e) Section 42.317 [~~42.258~~] applies to payments under this
9 subchapter.

10 (f) If a school district would have received a greater
11 amount under this subchapter for the applicable school year using
12 the adjusted value determined under Section 42.310 [~~42.257~~], the
13 commissioner shall add the difference between the adjusted value
14 and the amount the district received under this subchapter to
15 subsequent distributions to the district under this subchapter.

16 SECTION 3.34. Section 46.013, Education Code, is amended to
17 read as follows:

18 Sec. 46.013. MULTIPLE ALLOTMENTS PROHIBITED. A school
19 district is not entitled to state assistance under this subchapter
20 based on taxes with respect to which the district receives state
21 assistance under Subchapter G [~~F~~], Chapter 42.

22 SECTION 3.35. Section 46.032(a), Education Code, is amended
23 to read as follows:

24 (a) Each school district is guaranteed a specified amount
25 per student in state and local funds for each cent of tax effort to
26 pay the principal of and interest on eligible bonds. The amount of
27 state support, subject only to the maximum amount under Section

1 46.034, is determined by the formula:

2
$$EDA = (EDGL \times ADA \times EDTR \times 100) - (EDTR \times (DPV/100))$$

3 where:

4 "EDA" is the amount of state funds to be allocated to the
5 district for assistance with existing debt;

6 "EDGL" is the dollar amount guaranteed level of state and
7 local funds per student per cent of tax effort, which is \$35 or a
8 greater amount for any year provided by appropriation;

9 "ADA" is the number of students in average daily attendance,
10 as determined under Section 42.005, in the district;

11 "EDTR" is the existing debt tax rate of the district, which is
12 determined by dividing the amount budgeted by the district for
13 payment of eligible bonds by the quotient of the district's taxable
14 value of property as determined under Subchapter M, Chapter 403,
15 Government Code, [~~or, if applicable, under Section 42.2521,~~]
16 divided by 100; and

17 "DPV" is the district's taxable value of property as
18 determined under Subchapter M, Chapter 403, Government Code [~~, or,~~
19 ~~if applicable, under Section 42.2521~~].

20 SECTION 3.36. Section 46.037, Education Code, is amended to
21 read as follows:

22 Sec. 46.037. MULTIPLE ALLOTMENTS PROHIBITED. A school
23 district is not entitled to state assistance under this subchapter
24 based on taxes with respect to which the district receives state
25 assistance under Subchapter G [~~F~~], Chapter 42.

26 SECTION 3.37. Section 56.208, Education Code, is amended to
27 read as follows:

1 Sec. 56.208. FUNDING. (a) The Early High School Graduation
2 Scholarship program is financed under the Foundation School
3 Program. [~~Funding for the state tuition credits is not subject to~~
4 ~~the provisions of Sections 42.253(c) through (k).~~]

5 (b) The commissioner of education shall reduce the total
6 annual amount of Texas education [~~foundation school~~] fund payments
7 made to a school district by an amount equal to $F \times A$, where:

8 (1) "F" is the lesser of one or the quotient of the
9 district's local share for the preceding school year under Section
10 42.306 [~~42.252~~] divided by the tier one allotment under Section
11 42.304 [~~amount of money to which the district was entitled under~~
12 ~~Subchapters B and C, Chapter 42,~~] for the preceding school year; and

13 (2) "A" is the amount of state tuition credits under
14 this subchapter applied by institutions of higher education on
15 behalf of eligible persons who graduated from the district that has
16 not been used to compute a previous reduction under this
17 subsection.

18 (c) A school district that does not receive Texas education
19 [~~foundation school~~] fund payments during a year in which the
20 commissioner would otherwise withhold money from the district under
21 Subsection (b) shall remit an amount equal to the amount that would
22 be withheld under Subsection (b) to the comptroller for deposit to
23 the credit of the Texas education [~~foundation school~~] fund.

24 SECTION 3.38. Section 105.301(e), Education Code, is
25 amended to read as follows:

26 (e) The academy is not subject to the provisions of this
27 code, or to the rules of the Texas Education Agency, regulating

1 public schools, except that:

2 (1) professional employees of the academy are entitled
3 to the limited liability of an employee under Section 22.0511,
4 22.0512, or 22.052;

5 (2) a student's attendance at the academy satisfies
6 compulsory school attendance requirements; and

7 (3) for each student enrolled, the academy is entitled
8 to allotments from the foundation school program under Chapter 42
9 as if the academy were a school district without a tier one local
10 share for purposes of Section [42.306](#) [~~42.253~~].

11 SECTION 3.39. Section 403.093(d), Government Code, is
12 amended to read as follows:

13 (d) The comptroller shall transfer from the general revenue
14 fund to the [Texas education](#) [~~foundation school~~] fund an amount of
15 money necessary to fund the foundation school program as provided
16 by Chapter 42, Education Code. The comptroller shall make the
17 transfers in installments as necessary to comply with Section
18 [42.316](#) [~~42.259~~], Education Code. An installment must be made not
19 earlier than two days before the date an installment to school
20 districts is required by Section [42.316](#) [~~42.259~~], Education Code,
21 and must not exceed the amount necessary for that payment.

22 SECTION 3.40. Section 403.302(k), Government Code, is
23 amended to read as follows:

24 (k) For purposes of Section [42.308](#) [~~42.2522~~], Education
25 Code, the comptroller shall certify to the commissioner of
26 education:

27 (1) a final value for each school district computed

1 without any deduction for residence homestead exemptions granted
2 under Section 11.13(n), Tax Code; and

3 (2) a final value for each school district computed
4 after deducting one-half the total dollar amount of residence
5 homestead exemptions granted under Section 11.13(n), Tax Code.

6 SECTION 3.41. Section 404.121(1), Government Code, is
7 amended to read as follows:

8 (1) "Cash flow deficit" for any period means the
9 excess, if any, of expenditures paid and transfers made from the
10 general revenue fund in the period, including payments provided by
11 Section 42.316 [~~42.259~~], Education Code, over taxes and other
12 revenues deposited to the fund in the period, other than revenues
13 deposited pursuant to Section 403.092, that are legally available
14 for the expenditures and transfers.

15 SECTION 3.42. Section 466.355(c), Government Code, is
16 amended to read as follows:

17 (c) Each August the comptroller shall:

18 (1) estimate the amount to be transferred to the Texas
19 education [~~foundation school~~] fund on or before September 15; and

20 (2) notwithstanding Subsection (b) (4), transfer the
21 amount estimated in Subdivision (1) to the Texas education
22 [~~foundation school~~] fund before August 25 [~~installment payments are~~
23 ~~made under Section 42.259, Education Code~~].

24 SECTION 3.43. Section 822.201(c), Government Code, is
25 amended to read as follows:

26 (c) Excluded from salary and wages are:

27 (1) expense payments;

- 1 (2) allowances;
- 2 (3) payments for unused vacation or sick leave;
- 3 (4) maintenance or other nonmonetary compensation;
- 4 (5) fringe benefits;
- 5 (6) deferred compensation other than as provided by
- 6 Subsection (b) (3);
- 7 (7) compensation that is not made pursuant to a valid
- 8 employment agreement;
- 9 (8) payments received by an employee in a school year
- 10 that exceed \$5,000 for teaching a driver education and traffic
- 11 safety course that is conducted outside regular classroom hours;
- 12 (9) the benefit replacement pay a person earns as a
- 13 result of a payment made under Subchapter B or C, Chapter 661;
- 14 (10) amounts received under the educator excellence
- 15 incentive program under Subchapter J, Chapter 42, Education Code
- 16 ~~[contributions to a health reimbursement arrangement account~~
- 17 ~~received by an employee under Article 3.50-8, Insurance Code]~~; and
- 18 (11) any compensation not described by Subsection (b).

19 SECTION 3.44. Section 2175.304(c), Government Code, is

20 amended to read as follows:

21 (c) The procedures established under Subsection (b) must

22 give preference to transferring the property directly to a public

23 school or school district or to an assistance organization

24 designated by the school district before disposing of the property

25 in another manner. If more than one public school or school

26 district or assistance organization seeks to acquire the same

27 property on substantially the same terms, the system, institution,

1 or agency shall give preference to a public school that is
2 considered low-performing by the commissioner of education or to a
3 school district that has a relatively low ~~taxable~~ wealth per
4 student, as determined by the commissioner of education ~~that~~
5 ~~entitles the district to an allotment of state funds under~~
6 ~~Subchapter F, Chapter 42, Education Code~~], or to the assistance
7 organization designated by such a school district.

8 SECTION 3.45. Section 1579.251, Insurance Code, is amended
9 by amending Subsection (a) and adding Subsection (c) to read as
10 follows:

11 (a) The state shall assist employees of participating
12 school districts and charter schools in the purchase of group
13 health coverage under this chapter by providing for each covered
14 employee the amount of \$900 each state fiscal year or a greater
15 amount as provided by the General Appropriations Act. The state
16 contribution shall be distributed through the school finance
17 formulas under Chapters 41 and 42, Education Code, and used by
18 school districts and charter schools to pay contributions under a
19 group health coverage plan for employees ~~as provided by Sections~~
20 ~~42.2514 and 42.260, Education Code~~].

21 (c) A school district or charter school that does not
22 participate in the program is entitled to state assistance computed
23 and distributed as provided by Subsection (a). State funds
24 received under this subsection must be used to pay for employee
25 health coverage.

26 SECTION 3.46. Section 1581.702, Insurance Code, is amended
27 to read as follows:

1 Sec. 1581.702. ADDITIONAL SUPPORT. The state shall provide
2 additional support for a school district to which this section
3 applies in an amount computed by multiplying the total amount of
4 supplemental compensation that district employees would have
5 received [~~by district employees~~] under Chapter 1580, as it existed
6 on January 1, 2005, by 0.062.

7 SECTION 3.47. Section 6.02(b), Tax Code, is amended to read
8 as follows:

9 (b) A taxing unit that has boundaries extending into two or
10 more counties may choose to participate in only one of the appraisal
11 districts. In that event, the boundaries of the district chosen
12 extend outside the county to the extent of the unit's boundaries.
13 To be effective, the choice must be approved by resolution of the
14 board of directors of the district chosen. [~~The choice of a school~~
15 ~~district to participate in a single appraisal district does not~~
16 ~~apply to property annexed to the school district under Subchapter C~~
17 ~~or G, Chapter 41, Education Code, unless:~~]

18 [~~(1) the school district taxes property other than~~
19 ~~property annexed to the district under Subchapter C or G, Chapter~~
20 ~~41, Education Code, in the same county as the annexed property; or]~~

21 [~~(2) the annexed property is contiguous to property in~~
22 ~~the school district other than property annexed to the district~~
23 ~~under Subchapter C or G, Chapter 41, Education Code.]~~

24 SECTION 3.48. Section 21.02(a), Tax Code, is amended to
25 read as follows:

26 (a) Except as provided by [~~Subsection (b) and~~] Sections
27 21.021, 21.04, and 21.05, tangible personal property is taxable by

1 a taxing unit if:

2 (1) it is located in the unit on January 1 for more
3 than a temporary period;

4 (2) it normally is located in the unit, even though it
5 is outside the unit on January 1, if it is outside the unit only
6 temporarily;

7 (3) it normally is returned to the unit between uses
8 elsewhere and is not located in any one place for more than a
9 temporary period; or

10 (4) the owner resides (for property not used for
11 business purposes) or maintains the owner's [~~his~~] principal place
12 of business in this state (for property used for business purposes)
13 in the unit and the property is taxable in this state but does not
14 have a taxable situs pursuant to Subdivisions (1) through (3) [~~of~~
15 ~~this section~~].

16 SECTION 3.49. Section 313.029, Tax Code, is amended to read
17 as follows:

18 Sec. 313.029. TAX RATE LIMITATION. If the governing body of
19 a school district grants an application for a limitation on
20 appraised value under this subchapter, for each of the first two tax
21 years that begins after the date the application is approved, the
22 governing body of the school district may not adopt a tax rate that
23 exceeds the school district's rollback tax rate under Section
24 26.08, if applicable, for that year. If, in any tax year in which a
25 restriction on the school district's tax rate under this section is
26 in effect, the governing body approves a subsequent application for
27 a limitation on appraised value under this section, the restriction

1 on the school district's tax rate is extended until the first tax
2 year that begins after the second anniversary of the date the
3 subsequent application is approved.

4 SECTION 3.50. Section 39.901(d), Utilities Code, is amended
5 to read as follows:

6 (d) Not later than May 1 of each year, subject to Section
7 39.903(b), the commission shall transfer from the system benefit
8 fund to the Texas education [~~foundation school~~] fund the amount
9 determined by the Texas Education Agency under Subsection (b) to
10 the extent that funds are available. Amounts transferred from the
11 system benefit fund under this section may be appropriated only for
12 the support of the Foundation School Program and are available, in
13 addition to any amounts allocated by the General Appropriations
14 Act, to finance actions under Section 42.307 [~~41.002(b) or~~
15 ~~42.2521~~], Education Code.

16 ARTICLE 4. REPEALER; APPLICABILITY; EFFECTIVE DATE

17 SECTION 4.01. (a) Sections 1-3 and 57, Chapter 201, Acts of
18 the 78th Legislature, Regular Session, 2003, are repealed.

19 (b) Chapter 313, Acts of the 78th Legislature, Regular
20 Session, 2003, is repealed.

21 (c) Section 1.01, Chapter 366, Acts of the 78th Legislature,
22 Regular Session, 2003, is repealed.

23 (d) The following provisions of the Education Code are
24 repealed:

- 25 (1) Subchapters B, C, E, F, and G, Chapter 41;
26 (2) Chapter 42, as it existed on January 1, 2005; and
27 (3) Sections 21.357, 21.402(b) and (e), 25.0811(b) and

1 (c), 29.056(h), 29.203(c) and (g), 33.002, 39.023(j), 39.024(e),
2 39.112, 41.001, 41.002, 41.003, 41.0031, 41.007, 41.009(b),
3 41.011, 41.092, 41.099, 41.252(b), 44.004(c) and (d), and
4 105.301(f).

5 (e) Effective September 1, 2006, Section 31.021, Education
6 Code, is repealed.

7 (f) Section 403.302(j), Government Code, is repealed.

8 (g) The following provisions of the Insurance Code are
9 repealed:

10 (1) Section 1579.253(b);

11 (2) Chapter 1580;

12 (3) Section 1581.053(b); and

13 (4) Subchapter C, Chapter 1581.

14 (h) Sections 21.02(b) and 26.08(k), (l), and (m), Tax Code,
15 are repealed.

16 SECTION 4.02. If any provision of this Act or its
17 application to any person or circumstance is held invalid, the
18 invalidity does not affect other provisions or applications of this
19 Act that can be given effect without the invalid provision or
20 application, and to this end the provisions of this Act are declared
21 to be severable.

22 SECTION 4.03. Except as otherwise provided by this Act,
23 this Act applies beginning with the 2005-2006 school year.

24 SECTION 4.04. Except as otherwise provided by this Act,
25 this Act takes effect September 1, 2005. This Act takes effect only
26 if H.B. No. 3, Acts of the 79th Legislature, Regular Session, 2005,
27 becomes law. If that bill does not become law, this Act has no

1 effect.