

All Published Pre-filed Amendments for SB 1365

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**Huberty**

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Amendment

871719

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HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. \_\_\_\_\_

BY: Huberty

1 Amend S.B. 1365 (house committee report) by striking all  
2 below the enacting clause and substituting the following:

3 ARTICLE 1. STATE AND LOCAL ORGANIZATION AND GOVERNANCE

4 SECTION 1.01. Section 7.055, Education Code, is amended by  
5 adding Subsection (d) to read as follows:

6 (d) Notwithstanding any other law, the commissioner's power  
7 to delegate ministerial and executive functions under Subsection  
8 (b)(5) is a valid delegation of authority.

9 SECTION 1.02. Section 11.151(b), Education Code, is amended  
10 to read as follows:

11 (b) Except as provided by Sections 39A.201 and 39A.202, the  
12 [The] trustees as a body corporate have the exclusive power and duty  
13 to govern and oversee the management of the public schools of the  
14 district. All powers and duties not specifically delegated by  
15 statute to the agency or to the State Board of Education are  
16 reserved for the trustees, and the agency may not substitute its  
17 judgment for the lawful exercise of those powers and duties by the  
18 trustees.

19 SECTION 1.03. Section 11.1511(a), Education Code, is  
20 amended to read as follows:

21 (a) In addition to powers and duties under Section 11.151 or  
22 other law, the board of trustees of an independent school district  
23 has the powers and duties provided by Subsection (b), except as  
24 otherwise provided by Sections 39A.201 and 39A.202.

25 ARTICLE 2. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY

26 SECTION 2.01. Chapter 5, Education Code, is amended by  
27 adding Section 5.003 to read as follows:

28 Sec. 5.003. APPEAL. If an order, decision, or  
29 determination is described as final in Chapter 7, 11, 12, 39, or

1 39A, an interlocutory or intermediate order, decision, report, or  
2 determination made or reached before the final order, decision, or  
3 determination may be appealed only as specifically authorized by  
4 this code or a rule adopted under this code.

5 SECTION 2.02. Sections 12.1141(b) and (d), Education Code,  
6 are amended to read as follows:

7 (b) At the end of the term of a charter for an  
8 open-enrollment charter school, if a charter holder submits to the  
9 commissioner a petition for expedited renewal of the charter, the  
10 charter automatically renews unless, not later than the 30th day  
11 after the date the charter holder submits the petition, the  
12 commissioner provides written notice to the charter holder that  
13 expedited renewal of the charter is denied. The commissioner may  
14 not deny expedited renewal of a charter if:

15 (1) the charter holder has been assigned the highest  
16 or second highest performance rating under Subchapter C, Chapter  
17 39, for the three preceding school years;

18 (2) the charter holder has been assigned a financial  
19 performance accountability rating under Subchapter D, Chapter 39,  
20 indicating financial performance that is satisfactory or better for  
21 the three preceding school years; and

22 (3) no campus operating under the charter has been  
23 assigned an unacceptable [~~the lowest~~] performance rating under  
24 Subchapter C, Chapter 39, for the three preceding school years or  
25 such a campus has been closed.

26 (d) At the end of the term of a charter for an  
27 open-enrollment charter school, if a charter holder submits to the  
28 commissioner a petition for renewal of the charter, the  
29 commissioner may not renew the charter and shall allow the charter  
30 to expire if:

31 (1) the charter holder has been assigned an

1 unacceptable [~~the lowest~~] performance rating under Subchapter C,  
2 Chapter 39, for any three of the five preceding school years;

3 (2) the charter holder has been assigned a financial  
4 accountability performance rating under Subchapter D, Chapter 39,  
5 indicating financial performance that is lower than satisfactory  
6 for any three of the five preceding school years;

7 (3) the charter holder has been assigned any  
8 combination of the ratings described by Subdivision (1) or (2) for  
9 any three of the five preceding school years; or

10 (4) any campus operating under the charter has been  
11 assigned an unacceptable [~~the lowest~~] performance rating under  
12 Subchapter C, Chapter 39, for the three preceding school years and  
13 such a campus has not been closed.

14 SECTION 2.03. Section 29.202(a), Education Code, is amended  
15 to read as follows:

16 (a) 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 assigned an unacceptable  
20 performance rating that is made publicly available under Section  
21 39.054 [~~for~~

22 [~~(1) the student achievement domain under Section~~  
23 ~~39.053(c)(1)~~], and

24 [~~(2) the school progress domain under Section~~  
25 ~~39.053(c)(2)~~].

26 SECTION 2.04. Sections 39.057 and 39.058, Education Code,  
27 are transferred to Subchapter A, Chapter 39, Education Code,  
28 redesignated as Sections 39.003 and 39.004, Education Code, and  
29 amended to read as follows:

30 Sec. 39.003 [~~39.057~~]. SPECIAL [ACCREDITATION]  
31 INVESTIGATIONS. (a) The commissioner may authorize special

1 [~~accreditation~~] investigations to be conducted:

2 (1) when excessive numbers of absences of students  
3 eligible to be tested on state assessment instruments are  
4 determined;

5 (2) when excessive numbers of allowable exemptions  
6 from the required state assessment instruments are determined;

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

10 (4) in response to established compliance reviews of  
11 the district's financial accounting practices and state and federal  
12 program requirements;

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

16 (6) in response to an allegation involving a conflict  
17 between members of the board of trustees or between the board and  
18 the district administration if it appears that the conflict  
19 involves a violation of a role or duty of the board members or the  
20 administration clearly defined by this code;

21 (7) when excessive numbers of students in special  
22 education programs under Subchapter A, Chapter 29, are assessed  
23 through assessment instruments developed or adopted under Section  
24 39.023(b);

25 (8) in response to an allegation regarding or an  
26 analysis using a statistical method result indicating a possible  
27 violation of an assessment instrument security procedure  
28 established under Section 39.0301, including for the purpose of  
29 investigating or auditing a school district under that section;

30 (9) when a significant pattern of decreased academic  
31 performance has developed as a result of the promotion in the

1 preceding two school years of students who did not perform  
2 satisfactorily as determined by the commissioner under Section  
3 39.0241(a) on assessment instruments administered under Section  
4 39.023(a), (c), or (1);

5 (10) when excessive numbers of students eligible to  
6 enroll fail to complete an Algebra II course or any other advanced  
7 course as determined by the commissioner;

8 (11) when resource allocation practices as evaluated  
9 under Section 39.0821 indicate a potential for significant  
10 improvement in resource allocation;

11 (12) when a disproportionate number of students of a  
12 particular demographic group is graduating with a particular  
13 endorsement under Section 28.025(c-1);

14 (13) when an excessive number of students is  
15 graduating with a particular endorsement under Section  
16 28.025(c-1);

17 (14) in response to a complaint submitted to the  
18 agency with respect to alleged inaccurate data that is reported  
19 through the Public Education Information Management System (PEIMS)  
20 or through other reports required by state or federal law or rule or  
21 court order and that is used by the agency to make a determination  
22 relating to public school accountability, including accreditation,  
23 under this chapter;

24 (15) when a school district for any reason fails to  
25 produce, at the request of the agency, evidence or an investigation  
26 report relating to an educator who is under investigation by the  
27 State Board for Educator Certification; or

28 (16) as the commissioner otherwise determines  
29 necessary.

30 (b) If the agency's findings in an investigation under  
31 Subsection (a)(6) indicate that the board of trustees has observed

1 a lawfully adopted policy that does not otherwise violate a law or  
2 rule, the agency may not substitute its judgment for that of the  
3 board.

4 (c) The commissioner may authorize special [~~accreditation~~]  
5 investigations to be conducted in response to repeated complaints  
6 submitted to the agency concerning imposition of excessive  
7 paperwork requirements on classroom teachers.

8 (d) Based on the results of a special [~~accreditation~~]  
9 investigation, the commissioner may:

10 (1) take appropriate action under Chapter 39A;

11 (2) lower the school district's accreditation status  
12 or a district's or campus's accountability rating; or

13 (3) take action under both Subdivisions (1) and (2).

14 (e) At any time before issuing a report with the agency's  
15 final findings, the commissioner may defer taking an action under  
16 Subsection (d) until:

17 (1) a person who is a third party, selected by the  
18 commissioner, has reviewed programs or other subjects of an  
19 investigation under this section and submitted a report identifying  
20 problems and proposing solutions;

21 (2) a district completes a corrective action plan  
22 developed by the commissioner; or

23 (3) the completion of actions under both Subdivisions  
24 (1) and (2).

25 (f) Based on the results of an action taken under Subsection  
26 (e), the commissioner may decline to take the deferred action under  
27 Subsection (d) [~~Regardless of whether the commissioner lowers the~~  
28 ~~school district's accreditation status or a district's or campus's~~  
29 ~~performance rating under Subsection (d), the commissioner may take~~  
30 ~~action under Section 39A.002 or 39A.051 if the commissioner~~  
31 ~~determines that the action is necessary to improve any area of a~~



1 ~~district's or campus's performance, including the district's~~  
2 ~~financial accounting practices].~~

3       Sec. 39.004 [~~39.058~~]. CONDUCT OF SPECIAL [ACCREDITATION]  
4 INVESTIGATIONS. (a) The agency shall adopt written procedures for  
5 conducting special [~~accreditation~~] investigations [~~under this~~  
6 ~~subchapter~~], including procedures that allow the agency to obtain  
7 information from district employees in a manner that prevents a  
8 district or campus from screening the information. The agency  
9 shall make the procedures available on the agency Internet website.  
10 Agency staff must be trained in the procedures and must follow the  
11 procedures in conducting the special [~~accreditation~~]  
12 investigation.

13       (a-1) During the pendency of a special investigation under  
14 this section, the agency is not required to disclose the identity of  
15 any witness.

16       (b) After completing a special [~~accreditation~~]  
17 investigation, the agency shall present preliminary findings to any  
18 person or entity the agency finds has violated a law, rule, or  
19 policy. [~~Before issuing a report with its final findings, the~~  
20 ~~agency must provide a person or entity the agency finds has violated~~  
21 ~~a law, rule, or policy an opportunity for an informal review by the~~  
22 ~~commissioner or a designated hearing examiner.~~]

23       (c) In presenting the agency's preliminary findings to a  
24 school district under Subsection (b), the agency:

25               (1) shall provide to the district a written report of  
26 the agency's preliminary findings of the investigation;

27               (2) shall provide to the district any evidence relied  
28 on by the agency in making the preliminary findings;

29               (3) shall disclose to the district the identity of any  
30 witness whose statements the agency relied on in making the  
31 preliminary findings; and

1           (4) may not include recommended sanctions or  
2 interventions.

3           (d) A written report of preliminary findings under  
4 Subsection (c) and all associated materials produced by the agency  
5 in support of the report are excepted from public disclosure as  
6 audit working papers of the agency under Section 552.116,  
7 Government Code. A school district may publicly release a report of  
8 preliminary findings only if the release is approved by an  
9 affirmative vote of the board of trustees of the district.

10          (e) Unless otherwise provided by law, all evidence  
11 collected by the agency in connection with a special investigation,  
12 including witness statements and videos of agency interviews, are  
13 confidential and not subject to disclosure under Chapter 552,  
14 Government Code, except that evidence described by this section may  
15 be disclosed:

16           (1) to a person with a legitimate interest in the  
17 investigation; or

18           (2) in connection with an administrative or other  
19 legal proceeding brought under this title.

20          (f) Not later than 30 days after the date on which the board  
21 of trustees of the school district receives the written report of  
22 the preliminary findings under Subsection (c), the board of  
23 trustees of a school district may accept the agency's findings or  
24 respond in writing to the agency.

25          (g) The agency shall consider any response submitted by the  
26 board of trustees of the school district under Subsection (f)  
27 before providing the board of trustees of a school district a final  
28 report in writing that includes proposed sanctions or  
29 interventions.

30          (h) Before the commissioner determines to order a sanction  
31 or intervention based on a final report, other than a sanction or

1 intervention described by Section 39.005, the commissioner or the  
2 commissioner's designee shall provide an informal review. An  
3 informal review provided under this section is not a contested case  
4 for purposes of Chapter 2001, Government Code.

5 (i) In conducting a special investigation under Section  
6 39.003, the commissioner or the commissioner's designee may  
7 subpoena a current or former school district employee, agent, or  
8 official to compel the employee, agent, or official to attend a  
9 deposition or produce documents reasonably necessary for the  
10 investigation.

11 (j) If a person fails to comply with a subpoena issued under  
12 Subsection (i), the commissioner, acting through the attorney  
13 general, may file suit to enforce the subpoena in a district court  
14 in this state. On a finding that good cause exists for issuing the  
15 subpoena, the court shall order the person to comply with the  
16 subpoena and the court may punish a person who fails to obey the  
17 court order.

18 (k) A court may not enjoin a special investigation conducted  
19 under this section prior to the conclusion of the special  
20 investigation.

21 (l) A school district must exhaust the administrative  
22 remedies provided under this subchapter before appealing the  
23 findings or final recommendations of a special investigation  
24 conducted under this section to a court.

25 SECTION 2.05. Subchapter A, Chapter 39, Education Code, is  
26 amended by adding Sections 39.005, 39.006, and 39.007 to read as  
27 follows:

28 Sec. 39.005. HEARING FOLLOWING INVESTIGATION. (a) This  
29 section applies to a school district that is the subject of a  
30 special investigation conducted under Section 39.003 that resulted  
31 in a final report in which the agency recommends the appointment of

1 a board of managers, alternative management of a campus, or closure  
2 of the district or a district campus.

3 (b) Except as provided by Subsection (c), not later than 15  
4 days after the date on which the board of trustees of the school  
5 district receives the final report of a special investigation under  
6 Section 39.004(g), a board of trustees of a school district to which  
7 this section applies may request a hearing if the board of trustees  
8 disagrees with the final report or a sanction or intervention  
9 recommended by the agency in the report.

10 (c) A school district and the agency may agree in writing to  
11 extend the time period for requesting a hearing under Subsection  
12 (b) by not more than an additional 30 days.

13 (d) If a board of trustees of a school district requests a  
14 hearing under Subsection (b), the hearing shall be conducted by the  
15 State Office of Administrative Hearings unless the district and the  
16 agency agree in writing to the appointment of another qualified  
17 person to conduct the hearing.

18 (e) Except as otherwise provided by this subchapter, a  
19 hearing conducted under this section is a contested case under  
20 Chapter 2001, Government Code.

21 (f) A hearing conducted under this section shall be held at  
22 the administrative offices of the school district that requested  
23 the hearing or at another location within the geographic boundaries  
24 of the district agreed to by the district and the agency, unless the  
25 district and the agency agree in writing to a different location.

26 (g) To protect the privacy of a witness who is a child, the  
27 hearing examiner or the person conducting the hearing may:

28 (1) close the hearing to receive the testimony of the  
29 witness; or

30 (2) order that the testimony or a statement of the  
31 witness be presented using the procedures prescribed by Article

1 38.071, Code of Criminal Procedure.

2 (h) Not later than 90 days after the date on which the school  
3 district requests a hearing under Subsection (b), the hearing  
4 examiner or the person conducting the hearing shall issue and  
5 submit to the commissioner findings of fact and conclusions of law.  
6 The hearing examiner or the person conducting the hearing may not  
7 issue a recommendation for relief.

8 (i) A hearing conducted under this section may not be held  
9 on a Saturday, Sunday, or state or federal holiday, unless agreed to  
10 by the school district that requested the hearing and the agency.

11 Sec. 39.006. COMMISSIONER DETERMINATION. (a) After a  
12 hearing is conducted under Section 39.005, the commissioner shall  
13 provide an opportunity for the agency and the school district to  
14 present oral argument to the commissioner regarding the  
15 disagreement that formed the basis of the hearing. The  
16 commissioner shall provide the agency and the district with equal  
17 time for oral argument.

18 (b) After hearing any oral argument presented under  
19 Subsection (a), the commissioner shall issue a written decision to  
20 the school district that contains:

21 (1) findings of fact;  
22 (2) conclusions of law; and  
23 (3) sanctions, interventions, or other actions  
24 authorized by law.

25 (c) In determining the written decision under Subsection  
26 (b), the commissioner shall consider:

27 (1) the record of the hearing conducted under Section  
28 39.005;  
29 (2) the findings of fact and conclusions of law issued  
30 by the hearing examiner or the person conducting the hearing under  
31 Section 39.005(h); and

1           (3) the oral arguments presented under Subsection (a).

2           (d) The commissioner may accept, reject, or amend the  
3 conclusions of law issued by the hearing examiner or the person who  
4 conducted the hearing under Section 39.005 regarding the  
5 interpretation of a provision of this code.

6           (e) The commissioner may not reject or amend a finding of  
7 fact issued by the hearing examiner or the person who conducted the  
8 hearing under Section 39.005, unless the commissioner, after  
9 reviewing the record, determines that a finding of fact is not  
10 supported by substantial, admissible evidence.

11           (f) The commissioner shall provide in writing the legal  
12 basis and reason for any amendment or rejection of a finding of fact  
13 or conclusion of law made by the hearing examiner or the person who  
14 conducted the hearing under Section 39.005.

15           Sec. 39.007. JUDICIAL APPEAL. (a) Notwithstanding Chapter  
16 2001, Government Code, a school district may only appeal a decision  
17 made by the commissioner under Section 39.006 in accordance with  
18 this section.

19           (b) A school district may appeal a decision made by the  
20 commissioner under Section 39.006 to:

21           (1) a district court with jurisdiction in the county  
22 in which the school district's central administrative offices are  
23 located; or

24           (2) a district court in Travis County, if agreed to by  
25 the school district and the commissioner.

26           (c) A school district must file an appeal under this section  
27 not later than 30 days after the date on which the district received  
28 the written decision of the commissioner under Section 39.006(b).

29           (d) The filing of an appeal under this section does not  
30 affect or stay the enforcement of the commissioner's written  
31 decision issued under Section 39.006(b).

1       (e) A court hearing an appeal under this section shall  
2 review the decision issued by the commissioner under Section  
3 39.006(b) under the substantial evidence rule as provided by  
4 Subchapter G, Chapter 2001, Government Code, after examining:

5           (1) the evidentiary record of the hearing conducted  
6 under Section 39.005;

7           (2) the findings of fact issued by the hearing  
8 examiner or the person that conducted the hearing under Section  
9 39.005; and

10          (3) any amendment or rejection of a finding of fact  
11 made by the commissioner under Section 39.006.

12       (f) A court hearing an appeal under this section may not  
13 take additional evidence.

14       (g) A court hearing an appeal under this section may review  
15 any amendment to or rejection of a finding of fact made by the  
16 commissioner. If the court determines that the amendment or  
17 rejection was not supported by substantial evidence, the court  
18 shall reject the commissioner's amended finding of fact and  
19 consider instead the original finding issued by the hearing  
20 examiner or the person who conducted the hearing under Section  
21 39.005.

22       (h) Notwithstanding Section 2001.174, Government Code, the  
23 court may not reverse or remand a decision issued by the  
24 commissioner under Section 39.006(b) based on a procedural error or  
25 irregularity made by the commissioner, an agency investigator, or  
26 the hearing examiner or the person who conducted the hearing under  
27 Section 39.005, unless the court determines that the procedural  
28 error or irregularity is likely to have caused an erroneous  
29 decision by the commissioner.

30       SECTION 2.06. Section 39.054, Education Code, is amended by  
31 amending Subsections (a), (a-3), and (b-1) and adding Subsections

1 (a-4) and (a-5) to read as follows:

2 (a) Except as provided by Subsection (a-4), the [The]  
3 commissioner shall adopt rules to evaluate school district and  
4 campus performance and assign each district and campus an overall  
5 performance rating of A, B, C, D, or F. In addition to the overall  
6 performance rating, the commissioner shall assign each district and  
7 campus a separate domain performance rating of A, B, C, D, or F for  
8 each domain under Section 39.053(c). An overall or domain  
9 performance rating of A reflects exemplary performance. An overall  
10 or domain performance rating of B reflects recognized performance.  
11 An overall or domain performance rating of C reflects acceptable  
12 performance. An overall or domain performance rating of D reflects  
13 performance that needs improvement. An overall or domain  
14 performance rating of F reflects unacceptable performance. A  
15 district may not receive an overall or domain performance rating of  
16 A if the district includes any campus with a corresponding overall  
17 or domain performance rating of D or F. If a school district has  
18 been approved under Section 39.0544 to assign campus performance  
19 ratings and the commissioner has not assigned a campus an overall  
20 performance rating of D or F, the commissioner shall assign the  
21 campus an overall performance rating based on the school district  
22 assigned performance rating under Section 39.0544. [~~A reference in~~  
23 ~~law to an acceptable rating or acceptable performance includes an~~  
24 ~~overall or domain performance rating of A, B, C, or D or performance~~  
25 ~~that is exemplary, recognized, or acceptable performance or~~  
26 ~~performance that needs improvement.~~]

27 (a-3) Not later than August 15 of each year, the following  
28 information [~~performance ratings of each district and campus~~] shall  
29 be made publicly available as provided by rules adopted under this  
30 section:

31 (1) the performance ratings for each school district



1 and campus; and

2 (2) if applicable, the number of consecutive school  
3 years of unacceptable performance ratings for each district and  
4 campus.

5 (a-4) Notwithstanding any other law, the commissioner may  
6 assign a school district or campus an overall performance rating of  
7 "Not Rated" if the commissioner determines that the assignment of a  
8 performance rating of A, B, C, D, or F would be inappropriate  
9 because:

10 (1) the district or campus is located in an area that  
11 is subject to a declaration of a state of disaster under Chapter  
12 418, Government Code, and due to the disaster, performance  
13 indicators for the district or campus are difficult to measure or  
14 evaluate and would not accurately reflect quality of learning and  
15 achievement for the district or campus;

16 (2) the district or campus has experienced breaches or  
17 other failures in data integrity to the extent that accurate  
18 analysis of data regarding performance indicators is not possible;

19 (3) the number of students enrolled in the district or  
20 campus is insufficient to accurately evaluate the performance of  
21 the district or campus; or

22 (4) for other reasons outside the control of the  
23 district or campus, the performance indicators would not accurately  
24 reflect quality of learning and achievement for the district or  
25 campus.

26 (a-5) Notwithstanding any other law, an overall performance  
27 rating of "Not Rated" is not included in calculating consecutive  
28 school years of unacceptable performance ratings and is not  
29 considered a break in consecutive school years of unacceptable  
30 performance ratings for purposes of any provision of this code.

31 (b-1) Consideration of the effectiveness of district

1 programs under Section 39.052(b)(2)(B) or (C):

2 (1) must:

3 (A) be based on data collected through the Public  
4 Education Information Management System (PEIMS) for purposes of  
5 accountability under this chapter; and

6 (B) include the results of assessments required  
7 under Section 39.023; and

8 (2) may be based on the results of a special  
9 ~~[accreditation]~~ investigation conducted under Section 39.003  
10 ~~[39.057]~~.

11 SECTION 2.07. Subchapter C, Chapter 39, Education Code, is  
12 amended by adding Section 39.0543 to read as follows:

13 Sec. 39.0543. PERFORMANCE RATING REQUIRING INTERVENTION OR  
14 OTHER ACTION. (a) A reference in law to an acceptable performance  
15 rating or acceptable performance includes an overall or domain  
16 performance rating of A, B, or C or performance that is exemplary,  
17 recognized, or acceptable. A reference in law to an unacceptable  
18 performance rating or unacceptable performance includes an overall  
19 or domain performance rating of F. For the purposes of public  
20 reporting requirements, an overall or domain performance rating of  
21 D shall be referred to as performance that needs improvement.

22 (b) A reference in law to an acceptable performance rating  
23 or acceptable performance for a school district, open-enrollment  
24 charter school, district campus, or charter school campus includes  
25 an overall performance rating of D if, since previously receiving  
26 an overall performance rating of C or higher, the district, charter  
27 school, district campus, or charter school campus:

28 (1) has not previously received more than one overall  
29 performance rating of D; or

30 (2) has not received an overall performance rating of  
31 F.

1        (b-1) For the purposes of this section, an overall  
2 performance rating issued in a previous school year for a school  
3 district, open-enrollment charter school, district campus, or  
4 charter school campus of:

5            (1) met standard, academically acceptable,  
6 recognized, exemplary, A, B, or C is considered to be a performance  
7 rating of C or higher; and

8            (2) performance that needs improvement, academically  
9 unacceptable, or F is considered to be a rating of F.

10        (b-2) For purposes of determining whether a reference in law  
11 to an acceptable performance rating or acceptable performance  
12 includes an overall performance rating of D under Subsection (b), a  
13 performance rating of D assigned to a school district,  
14 open-enrollment charter school, district campus, or charter school  
15 campus prior to the 2018-2019 school year shall not be considered.

16        (b-3) Subsections (b-1) and (b-2) and this subsection  
17 expire September 1, 2027.

18        (c) A reference in law to an unacceptable performance rating  
19 or unacceptable performance includes a performance rating of D if  
20 the rating does not satisfy Subsection (b).

21        (d) For purposes of Subsection (b), a school district,  
22 open-enrollment charter school, district campus, or charter school  
23 campus that has never received an overall performance rating shall  
24 be considered to have previously received an overall performance  
25 rating of C or higher.

26        SECTION 2.08. Subchapter C, Chapter 39, Education Code, is  
27 amended by adding Sections 39.0545 and 39.0546 to read as follows:

28        Sec. 39.0545. ALTERNATIVE METHODS AND STANDARDS FOR  
29 EVALUATING PERFORMANCE FOR 2020-2021 SCHOOL YEAR. (a) This  
30 section applies to a campus:

31            (1) that meets the participation requirements for all

1 students in all subject areas for the annual measurement of  
2 achievement under Section 1111, Every Student Succeeds Act (20  
3 U.S.C. Section 6311(c)(4)(E)); and

4 (2) to which the most recent performance rating  
5 assigned, other than a "Not Rated" rating, is a D, F, or performance  
6 that needs improvement.

7 (b) Notwithstanding any other law, the commissioner shall  
8 adopt rules to develop and implement alternative methods and  
9 standards for evaluating the performance for the 2020-2021 school  
10 year of a campus to which this section applies. The rules adopted  
11 under this section must evaluate a campus under the domains of  
12 indicators of achievement listed in Sections 39.053(c)(1) and (2).

13 (c) The commissioner shall review a campus to which this  
14 section applies under the alternative methods and standards adopted  
15 under Subsection (b) on the request of the school district in which  
16 the campus is located made by the deadline established by  
17 commissioner rule.

18 (d) An acceptable performance rating assigned under the  
19 alternative methods and standards adopted by the commissioner under  
20 Subsection (b) is considered a break in consecutive school years of  
21 unacceptable performance ratings under this code.

22 (e) If the commissioner determines that the campus would not  
23 be assigned an acceptable performance rating, the commissioner  
24 shall instead assign the campus a rating of "Not Rated."

25 (f) This section does not apply to an intervention ordered  
26 on the basis of consecutive school years of unacceptable  
27 performance ratings accrued before the effective date of this  
28 section.

29 (g) This section expires September 1, 2027.

30 Sec. 39.0546. COVID-19 RECOVERY ACCOUNTABILITY FOR  
31 2021-2022 SCHOOL YEAR. (a) Notwithstanding any other law, the

1 commissioner shall assign to a school district or campus a rating of  
2 "Not Rated" for the 2021-2022 school year, unless, after reviewing  
3 the district or campus under the methods and standards adopted  
4 under Section 39.054, the commissioner determines the district or  
5 campus should be assigned an overall performance rating of C or  
6 higher.

7 (b) Regardless of the rating assigned under this section, if  
8 the commissioner would have otherwise assigned a campus an  
9 unacceptable performance rating, the campus is considered to be a  
10 campus assigned an unacceptable performance rating for purposes of  
11 determining a student's eligibility for a public education grant  
12 under Section 29.202.

13 (c) Notwithstanding any other law, the commissioner shall  
14 take an action described by Section 39A.111(1) or (2) if a campus:

15 (1) is not assigned an overall performance rating of C  
16 or higher for the 2021-2022 school year; and

17 (2) has been assigned an unacceptable performance  
18 rating for five or more school years prior to the 2021-2022 school  
19 year.

20 (d) This section expires September 1, 2028.

21 SECTION 2.09. Sections 39.151(a), (b), and (e), Education  
22 Code, are amended to read as follows:

23 (a) The commissioner by rule shall provide a process for a  
24 school district or open-enrollment charter school to challenge an  
25 agency decision made under this chapter relating to an academic or  
26 financial accountability rating that affects the district or  
27 school, including a determination of consecutive school years of  
28 unacceptable performance ratings.

29 (b) The rules under Subsection (a) must provide for the  
30 commissioner to appoint a committee to make recommendations to the  
31 commissioner on a challenge made to an agency decision relating to

1 an academic performance rating or determination, including a  
2 determination of consecutive school years of unacceptable  
3 performance ratings, or financial accountability rating. The  
4 commissioner may not appoint an agency employee as a member of the  
5 committee.

6 (e) A school district or open-enrollment charter school may  
7 not challenge an agency decision relating to an academic or  
8 financial accountability rating under this chapter, including a  
9 decision relating to a determination of consecutive school years of  
10 unacceptable performance ratings, in another proceeding if the  
11 district or school has had an opportunity to challenge the decision  
12 under this section.

13 SECTION 2.10. Section 39A.003, Education Code, is amended  
14 by adding Subsection (d) to read as follows:

15 (d) A conservator or management team may exercise the powers  
16 and duties defined by the commissioner under Subsection (a) or  
17 described by Subsection (c) regardless of whether the conservator  
18 or management team was appointed to oversee the operations of a  
19 school district in its entirety or the operations of a certain  
20 campus within the district.

21 SECTION 2.11. Section 39A.004, Education Code, is amended  
22 to read as follows:

23 Sec. 39A.004. APPOINTMENT OF BOARD OF MANAGERS. The  
24 commissioner may appoint a board of managers to exercise the powers  
25 and duties of a school district's board of trustees if the district  
26 is subject to commissioner action under:

27 (1) Section 39A.001(1) [~~39A.001~~] and:

28 (A) [~~(1)~~] has a current accreditation status of  
29 accredited-warned or accredited-probation;

30 (B) [~~(2)~~] fails to satisfy any standard under  
31 Section 39.054(e); or

1                   (C) [~~43~~] fails to satisfy financial  
2 accountability standards as determined by commissioner rule; or

3                   (2) Section 39A.001(2).

4           SECTION 2.12. Sections 39A.006(a) and (b), Education Code,  
5 are amended to read as follows:

6           (a) This section applies:

7                   (1) regardless of whether a school district has  
8 satisfied the accreditation criteria; and

9                   (2) to a conservator or management team appointed  
10 under any provision of this title, regardless of the scope or any  
11 changes to the scope of the conservator's or team's oversight.

12           (b) If for two consecutive school years, including the  
13 current school year, a school district has had a conservator or  
14 management team assigned to the district or a district campus for  
15 any reason under this title, the commissioner may appoint a board of  
16 managers to exercise the powers and duties of the board of trustees  
17 of the district.

18           SECTION 2.13. Section 39A.061(b), Education Code, is  
19 amended to read as follows:

20           (b) The commissioner may authorize a targeted improvement  
21 plan, ~~[or]~~ an updated targeted improvement plan, or a local  
22 improvement plan to supersede the provisions of and satisfy the  
23 requirements of developing, reviewing, and revising a campus  
24 improvement plan under Subchapter F, Chapter 11.

25           SECTION 2.14. Subchapter B, Chapter 39A, Education Code, is  
26 amended by adding Section 39A.065 to read as follows:

27           Sec. 39A.065. LOCAL IMPROVEMENT PLAN. (a) A school  
28 district, open-enrollment charter school, district campus, or  
29 charter school campus that is assigned a rating of D that qualifies  
30 under Section 39.0543(b) shall develop and implement a local  
31 improvement plan.

1       (b) A local improvement plan must be presented to the board  
2 of trustees of the school district or governing board of the  
3 open-enrollment charter school.

4       (c) The commissioner shall adopt rules to establish  
5 requirements for a local improvement plan components and training.  
6 The commissioner may not require a school district or  
7 open-enrollment charter school to submit the local improvement plan  
8 to the agency.

9       SECTION 2.15. Section 39A.102, Education Code, is amended  
10 by amending Subsection (b) and adding Subsection (b-1) to read as  
11 follows:

12       (b) Subject to Subsection (b-1), the [The] commissioner may  
13 appoint a monitor, conservator, management team, or board of  
14 managers to the school district to ensure and oversee  
15 district-level support to low-performing campuses and the  
16 implementation of the updated targeted improvement plan.

17       (b-1) The commissioner shall appoint a conservator to a  
18 school district under Subsection (b) unless and until:

19               (1) each campus in the district for which a campus  
20 turnaround plan has been ordered under Section 39A.101 receives an  
21 acceptable performance rating for the school year; or

22               (2) the commissioner determines a conservator is not  
23 necessary.

24       SECTION 2.16. The heading to Section 39A.110, Education  
25 Code, is amended to read as follows:

26       Sec. 39A.110. MODIFICATION OF [CHANGE-IN] CAMPUS TURNAROUND  
27 PLAN [PERFORMANCE-RATING].

28       SECTION 2.17. Section 39A.110, Education Code, is amended  
29 by adding Subsection (c) to read as follows:

30       (c) The commissioner may authorize modification of an  
31 approved campus turnaround plan if the commissioner determines that



1 due to a change in circumstances occurring after the plan's  
2 approval under Section 39A.107, a modification of the plan is  
3 necessary to achieve the plan's objectives.

4 SECTION 2.18. Section 39A.111, Education Code, is amended  
5 to read as follows:

6 Sec. 39A.111. CONTINUED UNACCEPTABLE PERFORMANCE RATING.  
7 If a campus is considered to have an unacceptable performance  
8 rating for five [~~three~~] consecutive school years [~~after the campus~~  
9 ~~is ordered to submit a campus turnaround plan under Section~~  
10 ~~39A.101~~], the commissioner, subject to Section 39A.112, shall  
11 order:

12 (1) appointment of a board of managers to govern the  
13 school district as provided by Section 39A.202; or

14 (2) closure of the campus.

15 SECTION 2.19. Subchapter C, Chapter 39A, Education Code, is  
16 amended by adding Sections 39A.117 and 39A.118 to read as follows:

17 Sec. 39A.117. INTERVENTION FOR CERTAIN DISTRICTS OR  
18 CAMPUSES. (a) For purposes of this section:

19 (1) an acceptable performance rating includes:

20 (A) a rating of met standard, academically  
21 acceptable, recognized, exemplary, A, B, or C; or

22 (B) a rating of D that meets the requirements of  
23 Section 39.0543(b);

24 (2) an unacceptable performance rating includes:

25 (A) a rating of performance that needs  
26 improvement, academically unacceptable, or F; or

27 (B) a rating of D that meets the requirements of  
28 Section 39.0543(c); and

29 (3) a rating of "Not Rated" is not considered an  
30 acceptable or unacceptable performance rating and may not be  
31 considered a break in consecutive years of unacceptable

1 performance.

2 (b) As soon as practicable after the effective date of S.B.  
3 1365, 87th Legislature, Regular Session, 2021, or similar  
4 legislation, the commissioner shall:

5 (1) determine the number of school years of  
6 unacceptable performance ratings occurring after the 2012-2013  
7 school year for each school district, open-enrollment charter  
8 school, district campus, or charter school campus by determining  
9 the number of unacceptable performance ratings assigned to each  
10 district, charter school, district campus, or charter school  
11 campus since the most recent acceptable performance rating was  
12 assigned to the district, charter school, district campus, or  
13 charter school campus; and

14 (2) use the number of school years of unacceptable  
15 performance ratings as the base number of consecutive years of  
16 unacceptable performance for which the performance rating in the  
17 2021-2022 school year will be added.

18 (c) Exemptions from interventions authorized under Sections  
19 11.174 and 28.020 and Section 5, Chapter 919 (H.B. 4205), Acts of  
20 the 86th Legislature, Regular Session, 2019, apply to an  
21 intervention ordered under this section and the commissioner shall  
22 make necessary modifications to an intervention ordered under this  
23 section in accordance with those provisions of law.

24 (d) This section may not be construed to:

25 (1) provide a school district or open-enrollment  
26 charter school additional remedies or appellate or other review for  
27 previous interventions, sanctions, or performance ratings ordered  
28 or assigned; or

29 (2) prohibit the commissioner from taking any action  
30 or ordering any intervention or sanction otherwise authorized by  
31 law.

1       (e) To the extent of a conflict with any other transition  
2 provision affecting this section, this transition provision  
3 prevails.

4       (f) This section expires September 1, 2027.

5       Sec. 39A.118. INTERVENTION IF ASSIGNED CERTAIN PERFORMANCE  
6 NEEDS IMPROVEMENT RATING. (a) Until another performance rating is  
7 issued, the agency may not implement the intervention or sanctions  
8 listed under Subsection (b) for a school district, open-enrollment  
9 charter school, district campus, or charter school campus, if the  
10 performance rating initiating the action under Subsection (b) is  
11 based on the first or second overall performance rating of D, since  
12 previously receiving a rating of C or higher.

13       (a-1) For purposes of this section, a performance rating of  
14 D assigned prior to the 2018-2019 school year shall not be  
15 considered. This subsection expires September 1, 2027.

16       (b) The following interventions or sanctions are subject to  
17 a pause under Subsection (a):

18               (1) revocation of a charter under Section 12.115(c);

19               (2) annexation under Section 13.054;

20               (3) change in accreditation status under rules adopted  
21 for accreditation under Section 39.052; and

22               (4) interventions or sanctions under Section  
23 39A.101(a), 39A.107(a) or (c), or 39A.111.

24       (c) The performance rating identified under Subsection (a):

25               (1) may not be included in calculating consecutive  
26 school years of unacceptable performance ratings; and

27               (2) is not considered a break in consecutive school  
28 years of unacceptable performance ratings.

29       (d) Interventions or sanctions implemented prior to a pause  
30 under Subsection (a) shall continue during a school year for which  
31 interventions or sanctions listed under Subsection (b) are paused.

1       (e) This section does not apply to a commissioner action  
2 based on performance or reasons not listed as interventions or  
3 sanctions under Subsection (b).

4       (f) For purposes of Subsection (a), a school district,  
5 open-enrollment charter school, district campus, or charter school  
6 campus that has never previously been assigned an overall  
7 performance rating shall be considered to have previously received  
8 an overall performance rating of C or higher.

9       SECTION 2.20. Section 39A.201(a), Education Code, is  
10 amended to read as follows:

11       (a) Notwithstanding Section 11.151(b) or 11.1511(a) or any  
12 other provision of this code, a [A] board of managers may exercise  
13 all of the powers and duties assigned to a board of trustees of a  
14 school district by law, rule, or regulation.

15       SECTION 2.21. Section 39A.202(a), Education Code, is  
16 amended to read as follows:

17       (a) Notwithstanding Section 11.151(b) or 11.1511(a) or any  
18 other provision of this code, if [~~if~~] the commissioner appoints a  
19 board of managers to govern a school district:

20               (1) the powers of the board of trustees of the district  
21 are suspended for the period of the appointment; and

22               (2) the commissioner shall appoint a district  
23 superintendent.

24       SECTION 2.22. Section 39A.301(a), Education Code, is  
25 amended to read as follows:

26       (a) A school district or open-enrollment charter school  
27 must appeal under this section if the district or charter school  
28 [~~that~~] intends to challenge a decision by the commissioner under  
29 this chapter to:

30               (1) close the district or a district campus or the  
31 charter school;

1           (2) [~~or to~~] pursue alternative management of a  
2 district campus or the charter school;

3           (3) appoint a board of managers to the district or  
4 charter school; or

5           (4) appoint a conservator or management team to the  
6 district or charter school [~~must appeal the decision under this~~  
7 ~~section~~].

8           SECTION 2.23. Section 39A.116, Education Code, is  
9 transferred to Subchapter Z, Chapter 39A, Education Code,  
10 redesignated as Section 39A.906, Education Code, and amended to  
11 read as follows:

12           Sec. 39A.906 [~~39A.116~~]. COMMISSIONER AUTHORITY. A  
13 decision by the commissioner under Chapter 39 or this chapter  
14 [~~subchapter~~] is final and may not be appealed unless an applicable  
15 provision of Chapter 39 or this chapter provides otherwise.

16           SECTION 2.24. Section 39A.0545, Education Code, is  
17 repealed.

18           SECTION 2.25. (a) Sections 39.003 and 39.004, Education  
19 Code, as redesignated and amended by this Act, and Sections 39.005,  
20 39.006, and 39.007, Education Code, as added by this Act, apply to a  
21 special investigation authorized, initiated, opened, or finalized  
22 on or after the effective date of this Act. A special investigation  
23 authorized or initiated by the Texas Education Agency under Section  
24 39.057, Education Code, before the effective date of this Act that  
25 is open and not finalized on the effective date of this Act, shall  
26 be continued as if authorized by Section 39.003, Education Code, as  
27 redesignated and amended by this Act, and proceed subject to  
28 Section 39.004, Education Code, as redesignated and amended by this  
29 Act, and Sections 39.005, 39.006, and 39.007, Education Code, as  
30 added by this Act.

31           (b) Section 39A.006, Education Code, as amended by this Act,

1 applies to a conservator or management team assigned to a school  
2 district before, on, or after the effective date of this Act.

3 SECTION 2.26. If this Act takes effect later than August 15,  
4 2021, the Texas Education Agency shall publish the consecutive  
5 school years of unacceptable performance ratings as required by  
6 Section 39.054(a-3), Education Code, as amended by this Act, for  
7 each school district and campus as soon as practicable after the  
8 effective date of this Act.

9 SECTION 2.27. As soon as practicable after the effective  
10 date of this Act, the commissioner of education shall adopt rules to  
11 develop and implement alternative methods and standards for  
12 evaluating the performance of a campus for the 2020-2021 school  
13 year as required by Section 39.0545, Education Code, as added by  
14 this Act.

### 15 ARTICLE 3. PUBLIC SCHOOL FISCAL MANAGEMENT

16 SECTION 3.01. Section 44.052(c), Education Code, is amended  
17 to read as follows:

18 (c) A trustee of a school district who votes to approve any  
19 expenditure of school funds in violation of a provision of this  
20 code, for a purpose for which those funds may not be spent, or in  
21 excess of the item or items appropriated in the adopted budget or a  
22 supplementary or amended budget commits an offense. An offense  
23 under this subsection is a Class C misdemeanor.

24 SECTION 3.02. Section 45.105, Education Code, is amended by  
25 amending Subsection (c) and adding Subsection (c-1) to read as  
26 follows:

27 (c) Local school funds from district taxes, tuition fees of  
28 students not entitled to a free education, other local sources, and  
29 state funds not designated for a specific purpose may be used for  
30 the purposes listed for state and county available funds and for  
31 purchasing appliances and supplies, paying insurance premiums,

1 paying janitors and other employees, buying school sites, buying,  
2 building, repairing, and renting school buildings, including  
3 acquiring school buildings and sites by leasing through annual  
4 payments with an ultimate option to purchase, and, except as  
5 provided by Subsection (c-1), for other purposes necessary in the  
6 conduct of the public schools determined by the board of trustees.  
7 The accounts and vouchers for county districts must be approved by  
8 the county superintendent. If the state available school fund in  
9 any municipality or district is sufficient to maintain the schools  
10 in any year for at least eight months and leave a surplus, the  
11 surplus may be spent for the purposes listed in this subsection.

12 (c-1) Funds described by Subsection (c) may not be used to  
13 initiate or maintain any action or proceeding against the state or  
14 an agency or officer of the state arising out of a decision, order,  
15 or determination that is final and unappealable under a provision  
16 of this code, except that funds may be used for an action or  
17 proceeding that is specifically authorized by a provision of this  
18 code or a rule adopted under this code and that results in a final  
19 and unappealable decision, order, or determination.

20 SECTION 3.03. Section 48.201, Education Code, is amended to  
21 read as follows:

22 Sec. 48.201. PURPOSE. The purpose of the tier two component  
23 of the Foundation School Program is to provide each school district  
24 with the opportunity to provide the basic program and to supplement  
25 that program at a level of its own choice. An allotment under this  
26 subchapter may be used for any legal purpose other than:

27 (1) capital outlay or debt service; or

28 (2) a purpose prohibited by Section 45.105(c-1) or  
29 another provision of this code.

30 SECTION 3.04. Section 39A.203, Education Code, is repealed.

31 SECTION 3.05. Section 44.052(c), Education Code, as amended

1 by this Act, applies only to an offense committed on or after the  
2 effective date of this Act. An offense committed before the  
3 effective date of this Act is governed by the law in effect when the  
4 offense was committed, and the former law is continued in effect for  
5 that purpose. For purposes of this section, an offense was  
6 committed before the effective date of this Act if any element of  
7 the offense occurred before that date.

8 ARTICLE 4. CONFORMING AMENDMENTS

9 SECTION 4.01. Section 7.028(a), Education Code, is amended  
10 to read as follows:

11 (a) Except as provided by Section 21.006(k), 22.093(1),  
12 22.096, 28.006, 29.001(5), 29.010(a), 38.003, or 39.003 [~~39.057~~],  
13 the agency may monitor compliance with requirements applicable to a  
14 process or program provided by a school district, campus, program,  
15 or school granted charters under Chapter 12, including the process  
16 described by Subchapter F, Chapter 11, or a program described by  
17 Subchapter B, C, D, E, F, H, or I, Chapter 29, or Subchapter A,  
18 Chapter 37, only as necessary to ensure:

- 19 (1) compliance with federal law and regulations;  
20 (2) financial accountability, including compliance  
21 with grant requirements;  
22 (3) data integrity for purposes of:  
23 (A) the Public Education Information Management  
24 System (PEIMS); and  
25 (B) accountability under Chapters 39 and 39A; and  
26 (4) qualification for funding under Chapter 48.

27 SECTION 4.02. Section 12.013(b), Education Code, is amended  
28 to read as follows:

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

- 30 (1) a provision of this title establishing a criminal  
31 offense;



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

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

6           (A) the Public Education Information Management  
7 System (PEIMS) to the extent necessary to monitor compliance with  
8 this subchapter as determined by the commissioner;

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

11           (C) criminal history records under Subchapter C,  
12 Chapter 22;

13           (D) student admissions under Section 25.001;

14           (E) school attendance under Sections 25.085,  
15 25.086, and 25.087;

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

18           (G) elementary class size limits under Section  
19 25.112, in the case of any campus in the district that fails to  
20 satisfy any standard under Section 39.054(e);

21           (H) high school graduation under Section 28.025;

22           (I) special education programs under Subchapter  
23 A, Chapter 29;

24           (J) bilingual education under Subchapter B,  
25 Chapter 29;

26           (K) prekindergarten programs under Subchapter E,  
27 Chapter 29;

28           (L) safety provisions relating to the  
29 transportation of students under Sections 34.002, 34.003, 34.004,  
30 and 34.008;

31           (M) computation and distribution of state aid

1 under Chapters 31, 43, and 48;

2 (N) extracurricular activities under Section  
3 33.081;

4 (O) health and safety under Chapter 38;

5 (P) the provisions of Subchapter A, Chapter 39;

6 (Q) public school accountability and special  
7 investigations under Subchapters A, B, C, D, and J, Chapter 39, and  
8 Chapter 39A;

9 (R) [~~(Q)~~] options for local revenue levels in  
10 excess of entitlement under Chapter 49;

11 (S) [~~(R)~~] a bond or other obligation or tax rate  
12 under Chapters 43, 45, and 48; and

13 (T) [~~(S)~~] purchasing under Chapter 44.

14 SECTION 4.03. Section 12.056(b), Education Code, is amended  
15 to read as follows:

16 (b) A campus or program for which a charter is granted under  
17 this subchapter is subject to:

18 (1) a provision of this title establishing a criminal  
19 offense; and

20 (2) a prohibition, restriction, or requirement, as  
21 applicable, imposed by this title or a rule adopted under this  
22 title, relating to:

23 (A) the Public Education Information Management  
24 System (PEIMS) to the extent necessary to monitor compliance with  
25 this subchapter as determined by the commissioner;

26 (B) criminal history records under Subchapter C,  
27 Chapter 22;

28 (C) high school graduation under Section 28.025;

29 (D) special education programs under Subchapter  
30 A, Chapter 29;

31 (E) bilingual education under Subchapter B,

1 Chapter 29;

2 (F) prekindergarten programs under Subchapter E,  
3 Chapter 29;

4 (G) extracurricular activities under Section  
5 33.081;

6 (H) health and safety under Chapter 38;

7 (I) the provisions of Subchapter A, Chapter 39;

8 (J) public school accountability and special  
9 investigations under Subchapters A, B, C, D, F, and J, Chapter 39,  
10 and Chapter 39A; and

11 (K) [~~J~~] the duty to discharge or refuse to hire  
12 certain employees or applicants for employment under Section  
13 12.1059.

14 SECTION 4.04. Section 12.104(b), Education Code, as amended  
15 by Chapters 262 (H.B. 1597), 464 (S.B. 11), 467 (H.B. 4170), and 943  
16 (H.B. 3), Acts of the 86th Legislature, Regular Session, 2019, is  
17 reenacted and amended to read as follows:

18 (b) An open-enrollment charter school is subject to:

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

21 (2) the provisions in Chapter 554, Government Code;  
22 and

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

26 (A) the Public Education Information Management  
27 System (PEIMS) to the extent necessary to monitor compliance with  
28 this subchapter as determined by the commissioner;

29 (B) criminal history records under Subchapter C,  
30 Chapter 22;

31 (C) reading instruments and accelerated reading

1 instruction programs under Section 28.006;  
2 (D) accelerated instruction under Section  
3 28.0211;  
4 (E) high school graduation requirements under  
5 Section 28.025;  
6 (F) special education programs under Subchapter  
7 A, Chapter 29;  
8 (G) bilingual education under Subchapter B,  
9 Chapter 29;  
10 (H) prekindergarten programs under Subchapter E  
11 or E-1, Chapter 29;  
12 (I) extracurricular activities under Section  
13 33.081;  
14 (J) discipline management practices or behavior  
15 management techniques under Section 37.0021;  
16 (K) health and safety under Chapter 38;  
17 (L) the provisions of Subchapter A, Chapter 39;  
18 (M) public school accountability and special  
19 investigations under Subchapters A, B, C, D, F, G, and J, Chapter  
20 39, and Chapter 39A;  
21 (N) [~~M~~] the requirement under Section 21.006  
22 to report an educator's misconduct;  
23 (O) [~~N~~] intensive programs of instruction  
24 under Section 28.0213;  
25 (P) [~~O~~] the right of a school employee to  
26 report a crime, as provided by Section 37.148;  
27 (Q) [~~P~~] bullying prevention policies and  
28 procedures under Section 37.0832;  
29 (R) [~~Q~~] the right of a school under Section  
30 37.0052 to place a student who has engaged in certain bullying  
31 behavior in a disciplinary alternative education program or to

1 expel the student;

2                   (S) [~~(R)~~] the right under Section 37.0151 to  
3 report to local law enforcement certain conduct constituting  
4 assault or harassment;

5                   (T) [~~(S)~~] a parent's right to information  
6 regarding the provision of assistance for learning difficulties to  
7 the parent's child as provided by Sections 26.004(b)(11) and  
8 26.0081(c) and (d);

9                   (U) [~~(T)~~] establishment of residency under  
10 Section 25.001;

11                   (V) [~~(T)~~] school safety requirements under  
12 Sections 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.115,  
13 37.207, and 37.2071;

14                   (W) [~~(T)~~] the early childhood literacy and  
15 mathematics proficiency plans under Section 11.185; and

16                   (X) [~~(U)~~] the college, career, and military  
17 readiness plans under Section 11.186.

18           SECTION 4.05. Section 12.1162(a), Education Code, is  
19 amended to read as follows:

20           (a) The commissioner shall take any of the actions described  
21 by Subsection (b) or by Section 39A.001, 39A.002, 39A.004, 39A.005,  
22 or 39A.007, to the extent the commissioner determines necessary, if  
23 an open-enrollment charter school, as determined by a report issued  
24 under Section 39.004(b) [~~39.058(b)~~]:

25                   (1) commits a material violation of the school's  
26 charter;

27                   (2) fails to satisfy generally accepted accounting  
28 standards of fiscal management; or

29                   (3) fails to comply with this subchapter or another  
30 applicable rule or law.

31           SECTION 4.06. Section 39.0302(a), Education Code, is

1 amended to read as follows:

2 (a) During an agency investigation or audit of a school  
3 district under Section 39.0301(e) or (f), a special [~~an~~  
4 ~~accreditation~~] investigation under Section 39.003(a)(8)  
5 [~~39.057(a)(8)~~] or (14), a compliance review under Section  
6 21.006(k), 22.093(1), or 22.096, or an investigation by the State  
7 Board for Educator Certification of an educator for an alleged  
8 violation of an assessment instrument security procedure  
9 established under Section 39.0301(a), the commissioner may issue a  
10 subpoena to compel the attendance of a relevant witness or the  
11 production, for inspection or copying, of relevant evidence that is  
12 located in this state.

13 SECTION 4.07. Section 39.056(h), Education Code, is amended  
14 to read as follows:

15 (h) The commissioner may at any time convert a monitoring  
16 review to a special [~~accreditation~~] investigation under Section  
17 39.003 [~~39.057~~], provided the commissioner promptly notifies the  
18 school district of the conversion.

19 SECTION 4.08. Section 39A.001, Education Code, is amended  
20 to read as follows:

21 Sec. 39A.001. GROUNDS FOR COMMISSIONER ACTION. The  
22 commissioner shall take any of the actions authorized by this  
23 subchapter to the extent the commissioner determines necessary if:

24 (1) a school district does not satisfy:

25 (A) the accreditation criteria under Section  
26 39.052;

27 (B) the academic performance standards under  
28 Section 39.053 or 39.054; or

29 (C) any financial accountability standard as  
30 determined by commissioner rule; or

31 (2) the commissioner considers the action to be

1 appropriate on the basis of a special [~~accreditation~~] investigation  
2 under Section 39.003 [~~39.057~~].

3 SECTION 4.09. Sections 39A.256(a) and (b), Education Code,  
4 are amended to read as follows:

5 (a) A board of managers appointed for an open-enrollment  
6 charter school [~~or a campus of an open-enrollment charter school~~]  
7 under this chapter or Chapter 12 has the powers and duties  
8 prescribed by Section 39A.201(b), if applicable, and Sections  
9 39A.201(a), 39A.202, [~~39A.203,~~] and 39A.206(b).

10 (b) Except as otherwise provided by this subsection, the  
11 board of managers for an open-enrollment charter school [~~or a~~  
12 ~~campus of an open-enrollment charter school~~] may not serve for a  
13 period that exceeds the period authorized by law for a board of  
14 managers appointed for a school district. A board of managers  
15 appointed to wind up the affairs of a former open-enrollment  
16 charter school or campus serves until dissolved by the  
17 commissioner.

18 SECTION 4.10. To the extent of any conflict, this article  
19 prevails over another Act of the 87th Legislature, Regular Session,  
20 2021, relating to nonsubstantive additions to and corrections in  
21 enacted codes.

22 ARTICLE 5. EFFECTIVE DATE

23 SECTION 5.01. This Act takes effect immediately if it  
24 receives a vote of two-thirds of all the members elected to each  
25 house, as provided by Section 39, Article III, Texas Constitution.  
26 If this Act does not receive the vote necessary for immediate  
27 effect, this Act takes effect September 1, 2021.