

## BILL ANALYSIS

Senate Research Center

H.B. 2  
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Education  
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Engrossed

### AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Since its very first Constitution, Texas has made education of every child its primary goal. Today, Texas is facing a crisis in providing funding for the public education system. Property taxes are too high, schools do not have the flexibility to raise additional revenue to meet the rising costs of educating children, and our current system of finance is being challenged in the courts. It is necessary to overhaul the public education system by stabilizing and improving funding for public education in Texas.

Whenever the funding of our public schools is addressed it is important to keep our children's education at the forefront of the discussion. For this reason it is essential to address and encourage student achievement and progress. Introducing an incentive program and focusing on other education reforms are necessary pieces to solve the larger puzzle of school finance.

The purpose of CSHB 2 - A Roadmap to Results, is to promote educational excellence and simplify the way by which the state funds its public schools.

### RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1A.01 (Sections 42.004, 42.3131, 42.501, Education Code), SECTION 2A.08 (Section 21.458, Education Code), SECTION 2A.09 (Section 22.056, Education Code), SECTION 2B.01, (Section 1.005, Education Code), SECTION 2B.03 (Section 7.007, Education Code), SECTION 2D.07 (Section 28.0215, Education Code), SECTION 2D.11 (Section 29.0822, Education Code), SECTION 2D.18 (Section 39.023, Education Code), SECTION 2D.21 (Section 39.0241, Education Code), SECTION 2D.22 (Section 39.025, Education Code), SECTION 2D.24 (Section 39.034, Education Code), SECTION 2D.29 (Section 39.113, Education Code), SECTION 2D.35 (Section 39.202, Education Code), SECTION 2E.04 (Section 29.065, Education Code), and SECTION 2F.01 (Section 29.127, Education Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of higher education in SECTION 2B.01 (Section 1.005, Education Code) of this bill.

Rulemaking authority is expressly granted to the Legislative Budget Board in SECTION 1A.01 (Section 42.006) of this bill.

Rulemaking authority is expressly granted to the State Board of Education in SECTION 1A.01 (Section 42.151) and SECTION 2G.01 (Section 29.1532, Education Code) of this bill.

Rulemaking authority is expressly granted to the Texas Education Agency in SECTION 2D.32 (Section 39.1371, Education Code) of this bill.

### SECTION BY SECTION ANALYSIS

#### ARTICLE 1. PUBLIC SCHOOL FINANCE

##### PART A. EDUCATION FUNDING

SECTION 1A.01. Amends Subtitle I, Title 2, Education Code, by adding Chapter 42, as follows:

## CHAPTER 42. FOUNDATION SCHOOL PROGRAM

### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 42.001. STATE POLICY. (a) Provides that 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 has 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) Requires the public school finance system of this state to 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.

Sec. 42.002. PURPOSES OF FOUNDATION SCHOOL PROGRAM. (a) Provides that the purposes of the Foundation School Program (program) set forth in this chapter are to guarantee that each school district in the state has certain resources.

(b) Sets forth the components of the program.

Sec. 42.003. STUDENT ELIGIBILITY. (a) Entitles a student to the benefits of the program if the student is five years of age or older and under 21 years of age on September 1 of the school year and has not graduated from high school.

(b) Entitles a student to whom Subsection (a) does not apply to the benefits of the program if the student is enrolled in a prekindergarten class under Section 29.153 (Free Prekindergarten for Certain Children).

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

(d) Entitles a student younger than five years of age, notwithstanding Subsection (a), to the benefits of the program under certain conditions.

Sec. 42.004. ADMINISTRATION OF PROGRAM. (a) Requires the commissioner of education (commissioner) to take such action and require such reports consistent with this chapter as may be necessary to implement and administer the program.

(b) Authorizes the commissioner to adopt rules necessary to implement and administer the program.

Sec. 42.005. AVERAGE DAILY ATTENDANCE. (a) Sets forth the defining components of average daily attendance.

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

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

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

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

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

(b) Requires the LBB to report the equalized funding elements to the commissioner and the legislature before each regular session of the legislature.

(c) Sets forth the components of the funding elements.

(d) Requires the LBB to conduct a study of the funding elements each biennium, as appropriate. Requires the study to include a determination of the projected cost to the state in the next state fiscal biennium of ensuring the ability of each school district to comply with all legal mandates and regulations without increasing district tax rates.

(e) Requires the LBB, notwithstanding Subsection (d), to contract for a comprehensive study of the funding elements. Requires the LBB to report the results of the study to the commissioner and the legislature not later than December 1, 2008. Provides that this subsection expires January 1, 2009.

Sec. 42.007. REFERENCE TO FOUNDATION SCHOOL FUND. Provides that a reference in law to the foundation school fund means the Texas education fund.

[Reserves Sections 42.008-42.100 for expansion.]

#### SUBCHAPTER B. BASIC PROGRAM

Sec. 42.101. ACCREDITATION ALLOTMENT AND SPECIAL STUDENT ALLOTMENTS. (a) Entitles a school district, for each student in average daily attendance, to a certain accreditation allotment.

(b) Authorizes an accreditation allotment in a greater amount for any school year to be provided by appropriation.

(c) Entitles a school district, in addition to the accreditation allotment, to special student allotments in the manner specified under Subchapter C.

[Reserves Sections 42.102-42.150 for expansion.]

#### SUBCHAPTER C. SPECIAL STUDENT ALLOTMENTS

Sec. 42.151. SPECIAL EDUCATION ALLOTMENTS. (a) Defines "full-time equivalent student" and "special education program."

(b) Entitles a school district, for each student in average daily attendance in a special education program in a mainstream instructional arrangement, to an annual allotment of \$4,822.

(c) Entitles a school district, for each full-time equivalent student in average daily attendance in a special education program in an instructional arrangement other than a mainstream instructional arrangement, to an annual allotment of a certain amount, based on the student's instructional arrangement.

(d) Prohibits the number of contact hours credited per day for each special education student in the off-home-campus instructional arrangement, for funding

purposes, from exceeding the contact hours credited per day for the multidistrict class instructional arrangement in the 1992-1993 school year.

(e) Prohibits, for funding purposes, the contact hours credited per day for each special education student in the resource room; self-contained, mild and moderate, regular campus; and self-contained, severe, regular campus instructional arrangements from exceeding the average of the statewide total contact hours credited per day for those three instructional arrangements in the 1992-1993 school year.

(f) Requires the State Board of Education (board), by rule, to prescribe the qualifications a special education instructional arrangement must meet in order to be funded as a particular instructional arrangement under this chapter. Requires the board, in prescribing the qualifications that a mainstream instructional arrangement must meet, to require that students with disabilities and their teachers receive the direct, indirect, and support services that are necessary to enrich the regular classroom and enable student success.

(g) Requires the board to adopt rules and procedures governing contracts for residential placement of special education students. Requires the legislature to provide by appropriation for the state's share of the costs of those placements.

(h) Requires funds allocated under this section, other than an indirect cost allotment established under board rule, to be used in the special education program under Subchapter A (Special Education Program), Chapter 29, except as provided by Subsection (m).

(i) Requires Texas Education Agency (TEA) to encourage the placement of students in special education programs, including students in residential instructional arrangements, in the least restrictive environment appropriate for students' educational needs.

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

(k) Entitles a school district that provides an extended year program required by federal law for special education students who may regress to receive, for each full-time equivalent student in average daily attendance, funds in an amount equal to 75 percent, or a lesser percentage determined by the commissioner, of the sum of the accreditation allotment and the additional allotment for the student's instructional arrangement under this section for each day the program is provided divided by the number of days in the minimum school year. Prohibits the total amount of state funding for extended year services under this subsection from exceeding \$10 million per year. Authorizes a school district to use funds received under this subsection only in providing an extended year program.

(l) Requires the commissioner, from the total amount of funds appropriated for special education under this chapter, to withhold an amount specified in the General Appropriations Act and distribute that amount to school districts for programs under Section 29.014 (School Districts that Provide Education Solely to Students Confined to or Educated in Hospitals). Provides that the program established under that section is required only in school districts in which the program is financed by funds distributed under this subsection and any other funds available for the program. Requires the commissioner, after deducting the amount withheld under this subsection from the total amount appropriated for special education, to reduce each district's allocation proportionately.

(m) Authorizes a school district, notwithstanding any other provision of law, to use funds allocated under this section to provide Saturday classes for students in grade levels one through four who fail to perform satisfactorily on an assessment instrument administered under Section 39.023 (Adoption and Administration of Instruments).

Sec. 42.152. ACCELERATED PROGRAMS ALLOTMENT. (a) Entitles a school district to an annual allotment for the costs of providing accelerated programs in an amount determined by a certain formula.

(b) Authorizes the legislature to provide by appropriation for a greater allotment than the amount prescribed by Subsection (a).

(c) Authorizes the legislature, in addition to the allotment provided by Subsection (a), to also provide funding by appropriation for any program or activity formerly funded under Section 42.152, as that section existed on January 1, 2005. Provides that funding provided under this subsection is not considered a special student allotment for purposes of Sections 42.301 (Purpose) and 42.302 (Allotment) or any other provision in this chapter that refers to special student allotments.

Sec. 42.153. TRANSITIONAL PROGRAM ALLOTMENT. (a) Entitles a district, for each student in average daily attendance in a bilingual education or special language program under Subchapter B, Chapter 29, to a certain annual allotment.

(b) Authorizes the legislature to provide by appropriation for a greater allotment than the amounts prescribed by Subsection (a).

Sec. 42.154. CAREER AND TECHNOLOGY EDUCATION ALLOTMENT. (a) Entitles a district, for each student in average daily attendance in an approved career and technology education program in grades seven through twelve, to an annual allotment of \$178 for each annual credit hour the student is enrolled in the program, or a greater amount for any school year provided by appropriation.

(b) Prohibits TEA from withdrawing or revoking approval for a career and technology education program that was approved as of January 1, 2005.

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

(b) Prohibits the total number of allotments under this section to which a school district is entitled from exceeding the number by which the number of students using public education grants to attend school in the district exceeds the number of students who reside in the district and use public education grants to attend school in another district.

[Reserves Sections 42.156-42.170 for expansion.]

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

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

Sec. 42.172. MAINTENANCE OF EFFORT. (a) Prohibits a school district, notwithstanding any other provision of this code, but subject to Subsection (b), from spending in any school year for certain programs or services an amount per student in average daily attendance that is less than the amount the district spent for that program or service per student in average daily attendance during the 2004-2005 school year.

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

[Reserves Sections 42.173-42.200 for expansion.]

#### SUBCHAPTER D. TRANSPORTATION ALLOTMENT

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

(b) Authorizes the district or county, if the amount of an allotment under this section that a school district or county receives exceeds the district's or county's cost of operating the transportation system, to use the excess funds for any legal purpose.

[Reserves Sections 42.202-42.220 for expansion.]

#### SUBCHAPTER E. NEW INSTRUCTIONAL FACILITY ALLOTMENT

Sec. 42.221. NEW INSTRUCTIONAL FACILITY ALLOTMENT. Entitles a school district to an additional allotment as provided by this subchapter for operational expenses associated with opening a new instructional facility.

Sec. 42.222. DEFINITION. Defines "instructional facility."

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

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

(b) Provides that, for the purposes of this section, the number of additional students in average daily attendance at a facility is the difference between the number of students in average daily attendance in the current year at that facility and the number of students in average daily attendance at that facility in the preceding year.

Sec. 42.225. PRORATION OF ALLOTMENTS. Requires the commissioner, if the total amount of allotments to which school districts are entitled under this subchapter for a school year exceeds the amount appropriated for allotments under this subchapter, to reduce each district's allotment under this subchapter in the manner provided by Section 42.313(f).

Sec. 42.226. APPLICABILITY TO CERTAIN DISTRICTS. Entitles a school district subject to Section 42.401 that elects to purchase average daily attendance credit under Subchapter D, Chapter 41, to a credit, in the amount of the allotments to which the district is entitled under this subchapter, against the total amount required under Section 41.093 (Cost) for the district to purchase attendance credits.

[Reserves Sections 42.227-42.240 for expansion.]

#### SUBCHAPTER F. INSTRUCTIONAL MATERIALS AND TECHNOLOGY ALLOTMENT

Sec. 42.241. INSTRUCTIONAL MATERIALS AND TECHNOLOGY ALLOTMENT.

(a) Entitles a school district to an annual allotment of \$150 for each student in average daily attendance.

(b) Authorizes funds allotted under this section to be used only to purchase approved instructional materials, including online instructional materials.

(c) Provides that this section applies beginning with the 2006-2007 school year. Provides that this subsection expires September 1, 2007.

[Reserves Sections 42.242-42.250 for expansion.]

#### SUBCHAPTER G. ENRICHMENT PROGRAM

Sec. 42.251. PURPOSE. Provides that the purpose of the enrichment program component of the program is to provide each school district with the opportunity to supplement the basic program at a level of its own choice. Authorizes an allotment under this subchapter to be used for any legal purpose other than capital outlay or debt service.

Sec. 42.252. ALLOTMENT. (a) Defines "wealth per student."

(b) Provides that each school district is guaranteed a specified amount per student in state and local funds for each cent of enrichment tax effort up to the maximum level specified in this subchapter. Sets forth the formula for determining the amount of state support, subject only to the maximum amount under Section 42.253.

(c) Requires the commissioner, not later than March 1 of each year, to make an initial determination of the amount of district tax effort available at the 90th percentile in wealth per student, based on the preliminary taxable values of property certified by the comptroller under Section 403.302(g) (Determination of School District Property Values), Government Code, and the estimates of student attendance in the General Appropriations Act. Requires the commissioner, not later than July 15 of each year, to make a final determination of the amount that reflects the final taxable values of property certified by the comptroller under Subchapter M, Chapter 403 (Comptroller of Public Accounts), Government Code. Prohibits the commissioner's determination of a final amount under this subsection from being appealed.

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

Sec. 42.253. DISTRICT ENRICHMENT TAX. (a) Prohibits the district enrichment tax from exceeding \$0.10 per \$100 of valuation.

(a-1) Prohibits the district enrichment tax, notwithstanding Subsection (a), from exceeding certain amounts for the 2005 through 2008 tax years.

(b) Requires a school district's enrichment tax rate to be approved by the voters in accordance with Section 45.003 and Section 26.08 (Election to Ratify School Taxes), Tax Code.

(c) Provides that Subsection (a-1) and this subsection expire January 1, 2009.

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

[Reserves Sections 42.255-42.300 for expansion.]

#### SUBCHAPTER H. ADDITIONAL ADJUSTMENTS; FINANCING THE PROGRAM

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

(b) Requires LBB to adopt a cost of education index based on a statistical analysis conducted on a revenue neutral basis that is designed to isolate the independent effects of uncontrollable factors on the compensation that school districts must pay, including teacher salaries and other benefits. Requires the analysis to include, at a minimum, variations in teacher characteristics, teacher work environment, and the economic and social conditions of the communities in which teachers reside.

(b-1) Provides that, for the 2005-2006 school year, the cost of education index for purposes of Subsection (a) is based on the average of the teacher fixed effects index in the 2004 report commissioned by the Joint Select Committee on Public School Finance of the 78th Legislature and the index used to determine a school district's adjustment for the 2004-2005 school year. Provides that, for the 2006-2007 school year, the cost of education index for purposes of Subsection (a) is the teacher fixed effects index in the 2004 report commissioned by the Joint Select Committee on Public School Finance of the 78th Legislature. Provides that this subsection expires September 1, 2007.

(c) Requires LBB to biennially update the cost of education index required by this section. Requires LBB to submit the updated index to the legislature not later than December 1 of each even-numbered year.

Sec. 42.302. SMALL AND MID-SIZED DISTRICT ADJUSTMENT. (a) Provides that the amounts of the accreditation allotments under Subchapter B and each special student allotment under Subchapter C of certain small and mid-sized school districts are adjusted in accordance with this section to reflect district costs related to the district's size. Sets forth certain designations used for purposes of this section.

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

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

(d) Provides that the sum of the total accreditation allotments and any special student allotments under Subchapter C of a school district that offers a kindergarten through grade 12 program and has less than 5,000 students in average daily attendance is adjusted by applying a formula out of certain provided formulas that results in the greatest adjusted allotment.

Sec. 42.303. SPARSITY ADJUSTMENT. (a) Sets forth certain adjusted accreditation allotments for certain schools, notwithstanding Sections 42.101 and 42.302.

(b) Sets forth certain accreditation allotments for purposes of computing an adjusted accreditation allotment under Subsection (a)(1).

Sec. 42.304. FINANCING: GENERAL RULE. (a) Provides that the sum of the accreditation allotments under Subchapter B and the additional allotments under Subchapters C, D, E, and F constitutes the tier one allotments. Provides that the sum of the tier one allotments and the enrichment program allotments under Subchapter G constitutes the total costs of the program.

(b) Requires the program to be financed by certain means.

Sec. 42.305. ADDITIONAL STATE AID FOR AD VALOREM TAX CREDITS UNDER TEXAS ECONOMIC DEVELOPMENT ACT. Entitles, for each school year, a school district, including a school district that is otherwise ineligible for state aid under this chapter, to state aid in an amount equal to the amount of all tax credits credited against ad valorem taxes of the district in that year under Subchapter D, Chapter 313 (School Tax Credits), Tax Code.

Sec. 42.306. LOCAL SHARE OF PROGRAM COST (TIER ONE). (a) Provides that each school district's share of the program is determined by a certain formula.

(b) Requires the commissioner to adjust the values reported in the official report of the comptroller as required by section 403.302 (Determination of School District Property Values), Government Code, to reflect reductions in taxable value of property resulting from natural or economic disaster after January 1 in the year in which the valuations are determined. Provides that the decision of the commissioner is final. Provides that an adjustment does not affect the local share of any other school district.

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

(d) Provides that, if a school district's tax rate is less than \$1.00 or the maximum tax rate otherwise permitted under Subsection (a) by appropriation, the district's tier one allotment is adjusted by a percentage determined by dividing the district's tax rate by \$1.00 or the maximum tax rate otherwise permitted under Subsection (a) by appropriation and multiplying the resulting quotient by 100. Requires the commissioner to determine the amount of the tier one allotment to which a district is entitled under this subsection. Provides that the commissioner's determination is final and is prohibited from being appealed.

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

Sec. 42.307. ADJUSTMENT FOR RAPID DECLINE IN TAXABLE VALUE OF PROPERTY. (a) Requires the commissioner, for purposes of Chapter 46 and this chapter, and to the extent money specifically authorized to be used under this section is available, to adjust the taxable value of property in a school district that, due to factors beyond the control of the board of trustees, experiences a rapid decline in the tax base

used in computing taxable values in excess of four percent of the tax base used in the preceding year.

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

(c) Provides that a decision of the commissioner under this section is final and prohibited from being appealed.

Sec. 42.308. ADJUSTMENT FOR OPTIONAL HOMESTEAD EXEMPTION. (a) Prohibits the commissioner, in any school year, from providing funding under this chapter based on a school district's taxable value of property computed in accordance with Section 403.302(d)(2), Government Code, unless certain conditions are satisfied.

(b) Requires the commissioner, in making a determination under Subsection (a)(2), to take certain actions.

(c) Requires the commissioner, in the first year of a state fiscal biennium, before providing funding as provided by Subsection (a)(2), to ensure that sufficient appropriated funds for purposes of the program are available for the second year of the biennium, including funds to be used for purposes of Section 42.307.

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

(e) Requires the commissioner to notify school districts as soon as practicable as to the availability of funds under this section. Requires a district, for purposes of computing a rollback tax rate under Section 26.08 (Election to Ratify School Taxes), Tax Code, to adjust the district's tax rate limit to reflect assistance received under this section.

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

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

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

(d) Provides that a determination by the commissioner under this section is final and may not be appealed.

Sec. 42.309. ADJUSTED PROPERTY VALUE FOR DISTRICTS NOT OFFERING ALL GRADE LEVELS. Provides that, for purposes of this chapter, the taxable value of property of a school district that contracts for students residing in the district to be

educated in another district under Section 25.039(a) is adjusted by applying a certain formula.

Sec. 42.310. EFFECT OF APPRAISAL APPEAL. (a) Requires the commissioner, if the final determination of an appeal under Chapter 42 (Judicial Review), Tax Code, results in a reduction in the taxable value of property that exceeds five percent of the total taxable value of property in the school district for the same tax year determined under Subchapter M, Chapter 403 (Comptroller of Public Accounts), Government Code, to request the comptroller to adjust its taxable property value findings for that year consistent with the final determination of the appraisal appeal.

(b) Requires the commissioner, if the district would have received a greater amount from the Texas education fund for the applicable school year using he adjusted value, to add the difference to subsequent distributions to the district from the Texas education fund. Provides that an adjustment does not affect the local share of any other district.

Sec. 42.311. ADDITIONAL TRANSITIONAL AID. (a) Entitles a school district, notwithstanding any other provision of this subtitle, and provided that a school district imposes a tax at a minimum rate specified by the commissioner, to the amount of state revenue necessary to maintain state and local revenue per student in average daily attendance in a certain amount.

(b) Provides that the amount of revenue to which a school district is entitled because of the technology allotment under Section 32.005 or the instructional materials and technology allotment under Section 42.241 is not included in making a determination under Subsection (a).

(c) Requires the commissioner to determine the minimum tax rate for a school district under Subsection (a) on the basis of the tax rate adopted by the district for maintenance and operations for the 2004-2005 school year.

(d) Requires the commissioner to determine the amount of state funds to which a school district is entitled under this section. Provides that the commissioner's determination is final and may not be appealed.

(e) Provides that any amount to which a school district is entitled under Subchapter G is not included in determining the amount to which a district is entitled under this section.

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

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

Sec. 42.312. TEMPORARY LIMITATIONS ON AID. (a) Requires the commissioner, notwithstanding any other provision of this subtitle, but subject to Subsection (e), to withhold from a school district the amount of state funds necessary to ensure that the district does not receive an amount of state and local revenue per student in average daily attendance that is greater than a certain percentage of the amount described by Section 42.311(a)(1)(A)(i).

(b) Requires the commissioner to determine the amount of state funds required to be withheld under this section. Provides that commissioner's determination is final and may not be appealed.

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

(d) Provides that Section 42.311(b) applies to any determinations made under this section.

(e) Entitles the district, if the amount to which a school district is entitled under Section 42.311 exceeds the amount to which the district is entitled under this section, to the greater amount.

(f) Provides that this section expires September 1, 2008.

Sec. 42.313. DISTRIBUTION OF TEXAS EDUCATION FUND. (a) Requires the commissioner, for each school year, to determine certain financial amounts.

(b) Requires the commissioner, except as provided by this subsection, to base the determinations under Subsection (a) on the estimates provided to the legislature under Section 42.314 for each school district for each school year. Authorizes the General Appropriations Act to provide alternate estimates of tax rates or total taxable value of property for each school district for each school year, in which case those estimates are required to be used in making the determinations under Subsection (a). Requires the commissioner to reduce the entitlement of each district that has a final taxable value of property for the second year of a state fiscal biennium that is higher than the estimate under Section 42.314 or the General Appropriations Act, as applicable. Prohibits a reduction under this subsection from reducing the district's entitlement below the amount to which it is entitled at its actual taxable value of property.

(c) Entitles each school district to an amount equal to the difference for that district between the sum of Subsections (a)(1) and (a)(2) and the sum of Subsections (a)(3), (a)(4), and (a)(5).

(d) Requires the commissioner to approve warrants to each school district equaling the amount of its entitlement, except as provided by this section. Requires warrants for all money expended according to this chapter to be approved and transmitted to treasurers or depositories of school districts in the same manner as warrants for state available fund payments are transmitted. Prohibits the total amount of the warrants issued under this section from exceeding the total amount appropriated for program purposes for that fiscal year.

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

(f) Requires the commissioner, if the total amount appropriated for a year is less than the amount of money to which school districts are entitled for that year, to reduce the total amount of funds allocated to each district proportionately. Provides that a district's entitlement under this section is increased by an amount equal to the reduction made under this subsection the following fiscal year.

(g) Requires the commissioner, not later than March 1 of each year, to determine the actual amount of state funds to which each school district is entitled under this chapter for the current school year and to compare that amount with the amount of

the warrants issued to each district for that year. Requires the commissioner, if the amount of the warrants differs from the amount to which a district is entitled because of variations in the district's tax rate, student enrollment, or taxable value of property, to adjust the district's entitlement for the next fiscal year accordingly.

(g-1) Requires the commissioner, not later than March 1 of each even-numbered year, to identify each school district in which the actual student enrollment for the current school year is at least three percent higher or lower than the estimate of student enrollment used to determine the amount of warrants issued to the district for that year. Requires the commissioner, subject to available funding, to adjust the district's entitlement for the next fiscal year so that the district receives, during that year, warrants in the amount to which the district would be entitled on the basis of a student enrollment that is three percent higher or lower, as applicable, than the estimate of student enrollment otherwise used to determine the district's entitlement. Requires the commissioner, to the extent that money is available in the second year of a state fiscal biennium for adjustments under Subsection (g) and this subsection, to give priority to adjustments under this subsection.

(h) Authorizes the legislature to appropriate funds necessary for increases under Subsection (g) or (g-1) from funds that the comptroller, at any time during the fiscal year, finds are available

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

Sec. 42.3131. USE OF CERTAIN REVENUE FOR ENHANCED COMPENSATION.

(a) Requires a school district, beginning with the 2005-2006 school year, to use at least 50 percent of all state and local maintenance and operations revenue in excess of the level expended in the 2004-2005 school year for the purpose of providing enhanced compensation to classroom teachers, full-time librarians, full-time counselors certified under Subchapter B, Chapter 21, and full-time school nurses.

(b) Requires the commissioner to adopt rules necessary to implement this section. Requires the rules to ensure salaries provided to individuals listed in Subsection (a) are increased by the lesser of certain amounts.

(c) Authorizes a school district that paid employees an additional amount during each of the 2003-2004 and 2004-2005 school years to compensate for reductions made in the health coverage or compensation supplementation provided by former Article 3.50-8 (Administration of Active Employee Health Coverage or Compensation Supplementation), Insurance Code, to apply to the commissioner for authority to provide a lesser amount of enhanced compensation than the amount otherwise required by this section, to the extent equitable considering the additional compensation provided by the district during the 2003-2004 and 2004-2005 school years.

Sec. 42.314. ESTIMATES REQUIRED. (a) Requires, not later than October 1 of each even-numbered year, the agency and the comptroller to submit certain information to the legislature.

(b) Requires TEA and the comptroller to update the information provided to the legislature under Subsection (a) not later than March 1 of each odd-numbered year.

(c) Requires TEA, for purposes of this section, to use the estimate of a student enrollment provided by the school district, unless the TEA's review of the estimate indicates that it is inaccurate. Requires the commissioner to adopt criteria for use by TEA in reviewing a district's estimate and to develop procedures to be used to resolve significant differences between the district's estimate and any revised estimate proposed by the TEA. Requires the procedures

to provide a district with an opportunity to demonstrate the basis of the district's estimate.

Sec. 42.315. **FALSIFICATION OF RECORDS; REPORT.** Requires, when, in the opinion of the TEA's director of school audits, audits or review of accounting, enrollment, or other records of a school district reveal deliberate falsification of the records, or violation of the provisions of this chapter, through which the district's share of state funds allocated under the authority of this chapter would be, or has been, illegally increased, the director to promptly and fully report the fact to the board, the state auditor, and the appropriate county attorney, district attorney, or criminal district attorney.

Sec. 42.316. **PAYMENTS FROM TEXAS EDUCATION FUND.** (a) Defines "category 1 school district," "category 2 school district," "category 3 school district," and "wealth per student."

(b) Requires payments for the Texas education fund to each category 1 school district to be made in a certain manner.

(c) Requires payments for the Texas education fund to each category 2 school district to be made in a certain manner.

(d) Requires payments for the Texas education fund to each category 3 school district to be made in a certain manner.

(e) Authorizes the amount of any installment required by this section to be modified to provide a school district with the proper amount to which the district may be entitled by law and to correct errors in the allocation or distribution of funds. Provides that, if an installment under this section is required to be equal to other installments, the amount of other installments may be adjusted to provide for that equality.

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

Sec. 42.317. **RECOVERY OF OVERALLOCATED FUNDS.** (a) Requires TEA, if a school district has received an overallocation of state funds, to recover from the district an amount equal to the overallocation by withholding from subsequent allocations of state funds or by requesting and obtaining a refund.

(b) Requires the TEA, if a district fails to comply with a request for a refund under Subsection (a), to certify to the comptroller that the amount constitutes a debt for purposes of Section 403.055 (Payments to Debtors or Delinquents Prohibited), Government Code. Requires TEA to provide to the comptroller the amount of the overallocation and any other information required by the comptroller. Authorizes the comptroller to certify the amount of the debt to the attorney general for collection.

(c) Requires any amounts recovered under this section to be deposited in the Texas education fund.

[Reserves Sections 42.318-42.400 for expansion.]

#### SUBCHAPTER I. ADDITIONAL EQUALIZATION

Sec. 42.401. **DISTRICTS SUBJECT TO ADDITIONAL EQUALIZATION.** (a) Requires, except as provided by Subsection (b), a school district in which the district's local share under Section 42.306 exceeds the district's tier one allotment under Section 42.304 to be consolidated by the commissioner under Subchapter H, Chapter 41.

(b) Authorizes a school district described under Subsection (a), as an alternative to consolidation under Subchapter H, Chapter 41, to elect to purchase average daily attendance credit in the manner provided by Subchapter D, Chapter 41.

[Reserves Sections 42.402-42.500 for expansion.]

#### SUBCHAPTER J. EDUCATOR EXCELLENCE INCENTIVE PROGRAM

Sec. 42.501. EDUCATOR EXCELLENCE INCENTIVE PROGRAM. (a) Requires the commissioner to establish an educator excellence incentive program under which school districts, in accordance with locally developed plans approved by the commissioner, provide incentive payments to employees who demonstrate superior success in adding value to student achievement.

(b) Requires a school district, each year, to use an amount equal to at least one percent of the district's total state and local expenditures for maintenance and operations to provide incentive payments to employees in accordance with this subchapter.

(c) Authorizes incentive payments under this subchapter to be used for certain purposes.

(d) Requires the commissioner to adopt rules necessary to implement this subchapter. Requires the commissioner, in adopting rules, to encourage local flexibility in designing incentive plans that promote student achievement.

Sec. 42.502. MINIMUM CRITERIA FOR LOCAL INCENTIVE PLANS. (a) Requires a school district to develop a local incentive plan for rewarding academic improvement and achievement in the district and submit the plan to the commissioner for approval.

(b) Requires a local incentive plan to be designed to reward individuals, campuses, or organizational units such as grade levels at elementary schools or academic departments at high schools.

(c) Requires a local incentive plan to provide for incentive payments to classroom teachers. Authorizes a local incentive plan to provide for incentive payments to other employees.

(d) Requires the primary criteria for making incentive payments to employees under a local incentive plan to be based on objective measures of student achievement, and the plan must provide for incentive payments to be awarded on the basis of high achievement, incremental growth in achievement, or both. Authorizes a local incentive plan to also consider other indicators of employee performance, such as teacher evaluations conducted by principals or parents.

(e) Requires a local incentive plan to be developed through a process that considers comments of classroom teachers in the district.

Sec. 42.503. EMPLOYMENT CONTRACTS. (a) Requires a school district to provide in employment contracts that qualifying employees may receive an incentive payment under the local incentive plan.

(b) Requires the district to indicate that any incentive payment distributed is considered a payment for performance and not an entitlement as part of an employee's salary.

Sec. 42.504. DECISION BY BOARD OF TRUSTEES. Provides that a decision by the board of trustees or the board's designee in providing an incentive payment under a local incentive plan approved under this subchapter is final and prohibited from being appealed.

SECTION 1A.02. Amends the heading to Chapter 41, Education Code, to read as follows:

CHAPTER 41. EQUALIZATION ACTIONS

SECTION 1A.03. Amends Section 41.004, Education Code, as follows:

Sec. 41.004. New heading: ANNUAL REVIEW OF EQUALIZATION. (a) Requires the commissioner, not later than July 15 of each year, using the estimate of enrollment under Section 42.314, rather than Section 42.254, to review the local share and tier one allotment of each school district in the state, rather than the wealth per student of school districts, in the state and make certain notifications. Makes conforming changes.

(b) Requires the commissioner, if, before the dates provided by this subsection, a district notified under Subsection (a)(1) has not purchased average daily attendance credit as provided by Subchapter D, to order the consolidation of the district with one or more other districts as provided by Subchapter H. Deletes existing text relating to reducing a district's wealth per student. Makes conforming changes.

(c) and (d) Make conforming changes.

SECTION 1A.04. Amends Section 41.006(a), Education Code, to make conforming changes.

SECTION 1A.05. Amends Section 41.008(a), Education Code, to delete text relating to the inclusion of certain consolidated taxing districts.

SECTION 1A.06. Amends Section 41.009(a), Education Code, to make a conforming change.

SECTION 1A.07. Amends Section 41.010, Education Code, to make conforming changes.

SECTION 1A.08. Amends Section 41.013(a), Education Code, to delete an exemption formerly provided to this section by Subchapter G.

SECTION 1A.09. Amends Section 41.091, Education Code, as follows:

Sec. 41.091. AGREEMENT. (a) Authorizes a school district subject to Section 42.401, rather than a school district with a wealth per student that exceeds the equalized wealth level, to execute an agreement with the commissioner to purchase attendance credits in an amount equal to the lesser of the difference between the district's local share under Section 42.306 and the district's tier one allotment under Section 42.304 or the amount equal to 35 percent of the district's total maintenance and operations tax revenue. Makes a conforming change.

(b) Provides that, notwithstanding Subsection (a), for the 2005-2006, 2006-2007, and 2007-2008 school years, the amount of attendance credits required to be purchased is equal to the greater of certain amounts.

(c) Provides that Subsection (b) and this subsection expire September 1, 2008.

SECTION 1A.10. Amends Section 41.093(a), Education Code, to make conforming changes.

SECTION 1A.11. Amends Section 41.251, Education Code, to make a conforming change.

SECTION 1A.12. Amends Section 41.252, Education Code, by amending Subsections (a) and (c) and adding Subsection (d), as follows:

(a) and (c) Make conforming changes.

(d) Defines "local share percentage."

SECTION 1A.13. Amends Section 41.257, Education Code, to make a conforming change.

SECTION 1A.14. Amends Section 44.004, Education Code, by adding Subsection (c-1), to require the notice described by Subsection (b) to state certain information in a distinct row for certain taxes.

SECTION 1A.15. Amends Section 45.003, Education Code, by amending Subsection (d) and adding Subsection (e), as follows:

(d) Requires a proposition submitted to authorize the levy of maintenance taxes to include the question of whether the governing board or commissioners court may levy, assess, and collect annual ad valorem taxes for the further maintenance of public schools, at a rate not to exceed the rate stated in the proposition, which may be not more than the sum of \$1.00, rather than \$1.50, on the \$100 valuation of taxable property in the district and \$0.15 on the \$100 valuation of taxable property in the district for enrichment. Makes a nonsubstantive change.

(e) Prohibits a district, notwithstanding Subsection (a), from adopting a tax rate for the maintenance and operations of the district that exceeds the sum of the maximum rates for purposes of Sections 42.253 and 42.306(a) unless that rate is approved by two-thirds of the qualified voters voting in an election held for that purpose. Provides that this subsection does not authorize the adoption of a tax rate for the maintenance and operations of the district that exceeds the maximum rate prescribed by Subsection (d). Provides that this subsection expires January 1, 2009.

SECTION 1A.16. Amends the heading to Section 26.08, Tax Code, to read as follows:

Sec. 26.08. SCHOOL DISTRICT TAXES AND ELECTIONS TO AUTHORIZE OR RATIFY SCHOOL TAXES.

SECTION 1A.17. Amends Section 26.08, Tax Code, by amending Subsections (a), (b), (c), (e), (h), (i), and (j) and adding Subsections (a-1) - (a-5) and (b-1), as follows:

(a) Requires a school district, except as provided by Subsection (b), to obtain voter authorization in an election each time the district adopts a tax rate for the maintenance and operations of the district that exceeds the rate levied by the district in the preceding tax year.

(a-1) Prohibits a school district, except as provided by Subsection (a-2), (a-3), or (a-4), for the 2005 tax year, from imposing a tax for the maintenance and operations of the district that exceeds the greater of certain amounts.

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

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

(a-4) Authorizes, notwithstanding any other provision of law, a school district permitted by special law on January 1, 2005, to impose an ad valorem tax for maintenance and operations at a rate greater than \$1.50 on the \$100 valuation of taxable property in the district to take certain actions.

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

(b) Redesignated from existing text of Subsection (a). Amends subsection to make it applicable to a school district with a maintenance and operations tax rate of less than \$1.00 on the \$100 valuation of property.

(b-1) Specifies the election as required by Subsection (b). Makes a conforming change.

(c), (e), (h), and (i) Make conforming changes.

(j) Provides that, for the purposes of Subsection (i), the amount of state funds that would have been available to a school district in the preceding year is computed using the district's, rather than the maximum, tax rate for that year.

SECTION 1A.18. Amends Section 31.01, Tax Code, by adding Subsection (b-1), to require a tax bill or the separate statement accompanying the tax bill, in addition to other requirements of this section, to state in a distinct row certain information for each of certain taxes.

SECTION 1A.19. Amends Section 311.013, Tax Code, by adding Subsection (l), as follows:

(l) Provides that this subsection applies only to a reinvestment zone created before January 1, 2005, for which a school district entered into an agreement before that date to pay a portion of the tax increment produced by the school district into the tax increment fund established for the zone. Requires the comptroller, in addition to the amount the school district is otherwise required to pay into the tax increment fund each year, to pay into the fund from any available source an additional amount. Provides that the additional amount is the amount by which the amount the district would have been required to pay into the fund for the current year under the agreement if the district levied taxes at the district's 2004 tax rate exceeds the amount the district is otherwise required to pay into the fund for the current year. Provides that this subsection ceases to apply to the reinvestment zone on the later of the date specified by Section 311.017(a)(1) and (2) for the reinvestment zone.

## PART B. SCHOOL DISTRICT EFFICIENCY

SECTION 1B.01. Amends Subchapter A, Chapter 11, Education Code, by adding Section 11.003, as follows:

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

(b) Requires an agreement under this section to contain an explanation of how the consolidation would allow the participating school districts and governmental entities to reduce cost, operate more efficiently, and improve educational quality.

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

(d) Requires the commissioner to develop and implement the program described by this section not later than January 1, 2006. Provides that this subsection expires March 1, 2006.

SECTION 1B.02. Amends Subchapter H, Chapter 45, Education Code, by adding Section 45.233, as follows:

Sec. 45.233. REVIEW OF TAX COLLECTIONS. Requires the comptroller to periodically examine the effectiveness of school districts in collecting district taxes.

#### PART C. SOCIAL SECURITY CONTRIBUTIONS

SECTION 1C.01. Amends Subchapter B, Chapter 606, Government Code, by adding Section 606.0261, as follows:

Sec. 606.0261. PAYMENT OF SCHOOL DISTRICT CONTRIBUTIONS. (a) Requires the state, subject to Subsection (b), to pay 50 percent of the total costs incurred by a school district in making contributions for social security coverage for the district's employees.

(b) Provides that payment of state assistance under this section is limited to certain entities.

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

SECTION 1C.02. Provides that this part takes effect September 1, 2005.

#### ARTICLE 2. EDUCATION EXCELLENCE

##### PART A. EDUCATOR QUALITY

SECTION 2A.01. Amends Section 21.045(a), Education Code, to include the growth in student achievement resulting from teaching by graduates of individual educator preparation programs as information pertinent to this section.

SECTION 2A.02. Amends Subchapter B, Chapter 21, Education Code, by adding Section 21.0461, as follows:

Sec. 21.0461. TEMPORARY CERTIFICATE FOR SUPERINTENDENT OR PRINCIPAL. (a) Authorizes the board to issue a temporary certificate under this section for certain positions.

(b) Requires a candidate for certification under this section to satisfy certain conditions.

(c) Authorizes a school district to require that a person who is employed by the district and who holds a certificate issued under this section complete a training program.

(d) Provides that a certificate issued to a person under this section is valid only in the school district in which the person is initially employed after receiving the certificate.

(e) Sets forth certain conditions regarding a certificate issued under this section.

(f) Requires the board to issue a standard certificate to a person who holds a temporary certificate issued under this section if the school district employing the person under the temporary certificate satisfies certain conditions.

(g) Requires a school district employing a person who holds a temporary certificate issued under this section to provide the person with intensive support during the person's first year of employment with the district, including certain training assistance.

SECTION 2A.03. Amends Section 21.054, Education Code, by amending Subsection (b) and adding Subsections (c) and (d), as follows:

(b) Provides an exception as provided by Section 21.059 in regards to certified principals being required to participate in the assessment process and professional growth activities at least once every five years.

(c) Requires a principal or superintendent, as part of compliance with continuing education requirements under this section, to attend advanced management training courses or programs as prescribed by board rule.

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

SECTION 2A.04. Amends Subchapter B, Chapter 21, Education Code, by adding Section 21.059, as follows:

Sec. 21.059. EXTENSION OF CERTAIN DEADLINES FOR ACTIVE DUTY MILITARY PERSONNEL. Entitles a person who holds a certificate or permit under this subchapter who is a member of the state military forces or a reserve component of the armed forces of the United States and who is ordered to active duty by proper authority to an additional amount of time, equal to the total number of years or parts of years that the educator serves on active duty, to complete certain requirements.

SECTION 2A.05. Amends Section 21.402, Education Code, by amending Subsections (a), (c), and (d) and adding Subsections (c-1) and (c-2), as follows:

(a) Amends existing text so that the determination of monthly salary is prescribed by Subsection (c). Deletes existing text stating that Subsection (e) serves as an exception to Subsection (a). Deletes existing text relating to the formula for determining the monthly salary amount.

(c) Sets forth the calculations for determining the minimum monthly salary under this section.

(c-1) Entitles, notwithstanding Subsection (a), for the 2005-2006 school year, a classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse to a monthly salary that is at least equal to a certain sum.

(c-2) Provides that Subsection (c-1) and this subsection expire September 1, 2006.

(d) Makes this subsection applicable to the 2005-2006 school year, rather than the 2000-2001 school year.

SECTION 2A.06. Amends Subchapter I, Chapter 21, Education Code, by adding Section 21.4021, as follows:

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

(b) Authorizes and recommends a school district, in determining a teacher's compensation, to take certain considerations into account.

- (c) Provides that a school district can and should provide additional compensation to a teacher who substantially contributes to improvement in student achievement.

SECTION 2A.07. Amends Subchapter J, Chapter 21, Education Code, by adding Section 21.4572, as follows:

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

SECTION 2A.08. Amends Subchapter J, Chapter 21, Education Code, by adding Section 21.458, as follows:

Sec. 21.458. MENTORS. (a) Authorizes each school district to assign a mentor teacher to each classroom teacher who has less than two years of teaching experience if the mentor satisfies certain conditions.

- (b) Requires the commissioner to adopt rules necessary to administer this section, including rules concerning the duties and qualifications of a teacher who serves as a mentor. Requires the rules concerning qualifications to require that to serve as a mentor a teacher must satisfy certain conditions.

- (c) Requires the commissioner to develop proposed rules under Subsection (b) by negotiated rulemaking as provided by Chapter 2008, Government Code.

- (d) Requires the commissioner, from the funds appropriated to the TEA for purposes of this section, to adopt rules and fund mentoring support through providers of mentor training. Requires the commissioner, in adopting rules under this subsection, to rely on research-based mentoring programs that, through external evaluation, have demonstrated success.

SECTION 2A.09. Amends Subchapter B, Chapter 22, Education Code, by adding Section 22.056, as follows:

Sec. 22.056. PROFESSIONAL LIABILITY INSURANCE FOR CLASSROOM TEACHERS. (a) Requires the commissioner, using funds appropriated for the purpose or otherwise available to the commissioner for the purpose, to make available to each classroom teacher, at no cost to the teacher, professional liability insurance to provide the costs of defense and indemnification protection from claims for damages arising out of any act or omission that is incident to or within the scope of the duties of the teacher's position of employment.

- (b) Requires the commissioner to obtain the insurance required to be made available by this section in a certain manner.

- (c) Provides that the insurance required to be made available by this section is in addition to the liability insurance provided by the employing school district under a general liability policy.

- (d) Authorizes the commissioner to adopt rules necessary to implement this section.

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

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

#### PART B. STATE GOVERNANCE

SECTION 2B.01. Amends Chapter 1, Education Code, by adding Section 1.005, as follows:

Sec. 1.005. EDUCATION RESEARCH CENTERS; SHARING STUDENT INFORMATION. (a) Defines "center."

(b) Authorizes the commissioner and the commissioner of higher education, in consultation with the State Board for Educator Certification, to establish not more than three centers for education research for conducting research for the benefit of education in this state, including research regarding the impact of federal education programs.

(c) Authorizes a center to be established as a part of certain entities.

(d) Authorizes a center to be operated under a memorandum of understanding between the commissioner, the commissioner of higher education, and the governing board of an educational institution described by Subsection (c)(3). Requires the memorandum of understanding to require the commissioner of education, or a person designated by the commissioner, and the commissioner of higher education, or a person designated by the commissioner, to provide direct, joint supervision of the center under this section.

(e) Sets forth certain guidelines for a center in conducting research under this section.

(f) Authorizes the commissioner and the commissioner of higher education to take certain actions.

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

(h) Requires the commissioner and the commissioner of higher education to adopt rules as necessary to implement this section.

SECTION 2B.02. Amends Section 37.008, Education Code, by adding Subsection (n), to provide that, for purposes of accountability under Chapter 39, a student placed in a disciplinary alternative education program is reported as if the student were enrolled at the student's assigned campus in the student's regularly assigned education program, including a special education program.

SECTION 2B.03. Amends Subchapter A, Chapter 7, Education Code, by adding Sections 7.007-7.009, as follows:

Sec. 7.007. PUBLIC EDUCATION INFORMATION MANAGEMENT SYSTEM (PEIMS). (a) Requires each school district to participate in the Public Education Information Management System (PEIMS) and to provide through that system information required for the administration of this code.

(b) Requires each school district to use a uniform accounting system adopted by the commissioner for the data required to be reported for PEIMS.

(c) Requires the commissioner to annually review PEIMS and to repeal or amend rules that require school districts to provide information through the system that is

not necessary. Requires the commissioner, in reviewing and revising the system, to develop rules to ensure that the system performs certain functions.

(d) Requires the commissioner's rules to ensure that the PEIMS links student performance data to other related information for purposes of efficient and effective allocation of school resources.

Sec. 7.008. STATEWIDE STUDENT ENROLLMENT, ATTENDANCE, AND ACHIEVEMENT TRACKING SYSTEM. (a) Requires each school district to participate in a system meeting standards approved by the commissioner to track each student enrolled in a public school in this state. Requires a student tracking system to perform certain functions.

(b) Requires each school district to use the student tracking system.

(c) Authorizes the commissioner to solicit and accept grant funds to maintain the student tracking system and to make the system available to school districts.

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

(b) Authorizes the third-party contractor, in order to develop and evaluate the data, to collect data from each school district under the contract, including data that is confidential under state or federal law. Provides that confidential data collected by the contractor does not lose its character as confidential information because of its collection by the contractor, and providing that data to the contractor does not constitute a release of the information by the school district.

(c) Provides that the contractor and its employees are subject to any state or federal law governing the release of or providing access to any confidential information to the same extent as the school district from which the data is collected. Prohibits the contractor from releasing or distributing the data to any other person in a form that contains confidential information.

(d) Authorizes confidential information to be used by the contractor solely for the purposes provided by Section 7.008 and requires it to be destroyed immediately when no longer needed for those purposes.

SECTION 2B.04. Amends Subchapter B, Chapter 7, Education Code, by adding Section 7.0221, as follows:

Sec. 7.0221. FINANCIAL ACCOUNTING REPORT REQUIRED. (a) Requires TEA to take certain actions relating to tracking expenditures.

(b) Requires the commissioner to prepare an annual cost accounting report of all expenditures described by Subsection (a).

(c) Requires the commissioner to make the annual cost accounting report for a fiscal year available to the public on TEA's Internet website not later than January 1 following that fiscal year. Requires the commissioner to provide a copy of the annual cost accounting report to any person who submits a written request to the commissioner.

SECTION 2B.05. Amends Section 8.102, Education Code, as follows:

Sec. 8.102. DATA REPORTING. (a) Creates subsection from existing text.

(b) Requires the uniform system for reporting financial information required by Subsection (a) to require regional education service centers to follow certain guidelines.

SECTION 2B.06. Amends Section 8.103, Education Code, as follows:

Sec. 8.103. ANNUAL EVALUATION. (a) Creates subsection from existing text.

(b) Requires the commissioner, in the audit conducted under Subsection (a)(1), to verify that the regional education service center has identified each expenditure separately by purpose as educational, support, or administrative as required by Section 8.102(b).

(c) Requires the commissioner to make the annual evaluation for a fiscal year available to the public not later than January 1 of the following fiscal year. Requires the commissioner to provide a copy of the annual evaluation to any person who submits a written request to the commissioner.

#### PART C. SCHOOL DISTRICT GOVERNANCE AND OTHER OPERATIONS

SECTION 2C.01. Amends Section 7.056(e), Education Code, to include the requirements for the first and last day of instruction under Section 25.0811, except as provided by that section as a suitable reason not to provide for an exemption.

SECTION 2C.02. (a) Amends Section 11.059, Education Code, as follows:

Sec. 11.059. TERMS. (a) Deletes existing text providing that a trustee of an independent school district serves a term of three years.

(b) Requires elections for trustees to be held on the uniform election date in November in even-numbered years. Makes conforming changes.

(c) Redesignated from existing Subsection (d).

(b) Amends Section 41.001(d), Election Code, to prohibit a general election of officers of an independent school district from being held on the February, May, or September uniform election date.

SECTION 2C.03. Amends Subchapter C, Chapter 11, Education Code, by adding Section 11.066, as follows:

Sec. 11.066. REMOVAL FOR FAILURE TO ATTEND BOARD MEETINGS. (a) Provides that it is a ground for removal of a trustee of an independent school district that the trustee is absent from more than half of the regularly scheduled board of trustees meetings during a calendar year that the member is eligible to attend, unless the absence is excused by a majority vote of the board of trustees.

(b) Requires the superintendent, if the superintendent of the school district has knowledge that a ground for removal exists, to notify the board of trustees. Requires the board, on a determination that a potential ground for removal exists, to notify the appropriate county or district attorney or the attorney general.

SECTION 2C.04. Amends Subchapter D, Chapter 11, Education Code, by adding Section 11.1511, as follows:

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

- (b) Requires a school district that publishes notice under this section to have a link on its Internet website that is clearly identified as the link to public notices for public hearings or public meetings.

SECTION 2C.05. Amends Subchapter D, Chapter 11, Education Code, by adding Section 11.170, as follows:

Sec. 11.170. CONFLICTS OF INTEREST. (a) Prohibits, except as provided by Subsection (b), a member of the board of trustees of a school district that has its central administrative office in a municipality with a population of 10,000 or less from receiving any financial benefit for personal or professional services performed by the member or by a business entity in which the member has a substantial interest, as determined under Chapter 171 (Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments), Local Government Code, under a contract or other agreement with the district.

- (b) Provides that Subsection (a) does not prohibit a contract or other agreement between a school district and a business entity that employs a member of the district's board of trustees or a person related to a member of the board of trustees if certain circumstances are present.

- (c) Provides that this section controls to the extent of any conflict between this section and Chapter 171, Local Government Code.

SECTION 2C.06. Amends Section 11.201, Education Code, by adding Subsections (e) and (f), as follows:

- (e) Prohibits a superintendent from receiving any financial benefit for personal services performed by the superintendent for any business entity that conducts or solicits business with the school district. Requires any financial benefit received by the superintendent for performing personal services for any other entity to be approved by the board of trustees on a case-by-case basis in an open meeting.

- (f) Prohibits a school district from paying a superintendent a salary in an amount that exceeds 400 percent of the salary of the highest paid classroom teacher in the district.

SECTION 2C.07. Amends Section 25.001, Education Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

- (b) Includes a person who does not reside in the school district but has a grandparent who meets certain qualifications as someone who is eligible to be admitted to a public school by the board of trustees of the school district.

- (b-1) Prohibits a school district from prohibiting a parent or grandparent of a student admitted under this section from providing any food product of the parent's or grandparent's choice to certain children at certain functions

SECTION 2C.08. Amends Section 25.002, Education Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

- (a) Deletes existing text providing a deadline for furnishing certain information to a school district of not later than the 30th day after a parent or legal guardian enrolls a child in a public school.

- (a-1) Requires information a school district furnishes under Subsection (a) to be furnished by the district not later than the 10th day after the date a request for the information is received by the school district. Requires information a parent or other person with legal control of a child under a court order furnishes under Subsection (a) to be furnished by the parent or other person not later than the 30th day after the date the child is enrolled in a public school. Requires, if a parent or other person with legal

control of a child under a court order requests that a district transfer a child's student records, the district to which the request is made to notify the parent or other person as soon as practicable that the parent or other person may request and receive an unofficial copy of the records for delivery in person to a school in another district.

SECTION 2C.09. Amends Section 25.031, Education Code, as follows:

Sec. 25.031. ASSIGNMENTS AND TRANSFERS IN DISCRETION OF GOVERNING BOARD. (a) Creates subsection from existing text.

(b) Prohibits a student who transfers to a school campus other than the campus the student would normally attend based on the student's residence from being subsequently transferred out of a class at that campus before the end of a semester if the only purpose of the subsequent transfer is to comply with the limit in Section 25.112. Provides that a school district is not required to apply for an exception under Section 25.112(d) for the class in which the student is enrolled.

SECTION 2C.10. Amends Subchapter B, Chapter 25, Education Code, by adding Section 25.0311, as follows:

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

SECTION 2C.11. Amends the heading to Section 25.0811, Education Code, to read as follows:

Sec. 25.0811. FIRST AND LAST DAY OF INSTRUCTION.

SECTION 2C.12. Amends Section 25.0811(a), Education Code, to require a school district to begin instruction for students for a school year on the first Tuesday after Labor Day. Requires the school year to end not later than June 7 unless certain conditions are satisfied.

SECTION 2C.13. Amends Subchapter Z, Chapter 25, Education Code, by adding Section 25.902, as follows:

Sec. 25.902. CERTAIN MANDATORY STUDENT IDENTIFICATION METHODS PROHIBITED. (a) Defines "radio frequency identification technology."

(b) Prohibits a school district from requiring a student to use an identification device that uses radio frequency identification technology or similar technology to identify the student, transmit information regarding the student, or track the location of the student.

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

SECTION 2C.14. Amends Subchapter D, Chapter 33, Education Code, by adding Section 33.087, as follows:

Sec. 33.087. ELIGIBILITY OF STUDENTS PARTICIPATING IN JOINT CREDIT OR CONCURRENT ENROLLMENT PROGRAMS. Provides that a student otherwise eligible to participate in an extracurricular activity or a University Interscholastic League competition is not ineligible because the student is enrolled in a course offered for joint

high school and college credit or in a course offered under a concurrent enrollment program, regardless of the location at which the course is provided.

SECTION 2C.15. Amends Section 37.006, Education Code, by adding Subsection (d-1), as follows:

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

SECTION 2C.16. Amends and reenacts Section 37.007(b), Education Code, as amended by Chapters 443 and 1055, Acts of the 78th Legislature, Regular Session, 2003, to make Section 22.01, Penal Code, applicable to this section.

SECTION 2C.17. Amends Section 42.002(a), Election Code, to include an election held by a school district on the November uniform election date, as provided by Section 42.0621, as an election for which the county election precincts are the election precincts.

SECTION 2C.18. Amends Subchapter C, Chapter 42, Election Code, by adding Section 42.0621, as follows:

Sec. 42.0621. **PRECINCTS FOR NOVEMBER SCHOOL DISTRICT ELECTION.** (a) Requires a school district that holds an election on the November uniform election date to use the regular county election precincts.

(b) Requires election officials, if an election precinct contains territory from more than one school district or more than one district used to elect a member of the governing body of a school district, to take reasonable measures to ensure that a voter voting at that precinct is prohibited from voting in an election in which the voter is not entitled to vote.

(c) Provides that this section does not require a school district to contract with a county under Section 31.092 or hold a joint election with a county under Chapter 271.

(d) Requires the secretary of state to prescribe procedures to implement this section.

SECTION 2C.19. Amends Section 43.004, Election Code, as follows:

Sec. 43.004. **DESIGNATION OF LOCATION: ELECTIONS OF OTHER POLITICAL SUBDIVISIONS.** (a) Creates subsection from existing text.

(b) Requires a school district, if the school district holds an election on the November uniform election date, to designate as the polling places for the election the regular county polling places in the county elections precincts that contain territory from the school district.

SECTION 2C.20. Amends Section 44.031(g), Education Code, to provide an exception to this subsection under Section 44.045. Makes a conforming change.

SECTION 2C.21. Amends Section 44.033(b), Education Code, to make a conforming change.

SECTION 2C.22. Amends Subchapter B, Chapter 44, Education Code, by adding Section 44.045, as follows:

Sec. 44.045. **ELECTRONIC NOTICE.** Authorizes a school district to publish an abbreviated notice that states the universal resource locator of the publicly accessible Internet website where the detailed notice is published instead of the detailed notice

required under Sections 44.031(g) and 44.033(b). Requires the detailed notice to be continuously available on the website for whichever of certain periods is longer.

SECTION 2C.23. Amends Subchapter z, Chapter 271, Local Government Code, by adding Section 271.908, as follows:

Sec. 271.908. ELECTRONIC NOTICE BY SCHOOL DISTRICT. Authorizes a school district, instead of the detailed notice required by Sections 271.055 and 272.001, to publish an abbreviated notice that states the universal resource locator of the publicly accessible Internet website where the detailed notice is published. Requires the detailed notice to be continuously available on the website for whichever of certain periods is longer.

SECTION 2C.24. Amends Section 272.001(a), Local Government Code, to include Section 271.908 as providing an exception to this subsection.

SECTION 2C.25. (a) Provides that Section 11.059, Education Code, applies to a school district trustee election scheduled to be held on or after November 8, 2005.

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

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

(d) Authorizes a person, to implement the changes made to Section 11.059 (Terms), Education Code, as amended by this Act, to serve a term as school district trustee that is longer than the term for which the person was elected.

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

#### PART D. ACCOUNTABILITY

SECTION 2D.01. Amends Subchapter A, Chapter 7, Education Code, by adding Section 7.010, as follows:

Sec. 7.010. BEST PRACTICES; CLEARINGHOUSE. (a) Requires TEA to establish an accessible online clearinghouse of information relating to the best practices of school districts for curriculum development, classroom instruction, bilingual education, special language programs, and business practices. Requires the information to be accessible by school districts and interested members of the public.

(b) Requires TEA to perform certain functions relating to business and curriculum best practices.

(c) Authorizes TEA to include in the clearinghouse any information that it determines to be relevant to the best practices of school districts.

(d) Requires the commissioner, based on the measure of progress toward English language proficiency under Section 29.065, to determine which school districts offer the most effective bilingual education and special language programs and make the information available as provided by this section.

(e) Requires TEA to contract for the services of one or more third-party contractors to develop a system of collecting and evaluating best practices of school districts as provided by this section. Requires the TEA, in addition to any other considerations required by law, to consider an applicant's demonstrated competence and qualifications in analyzing school district practices in awarding a contract under this subsection.

(f) Requires the TEA to implement this section not later than September 1, 2006. Provides that this subsection expires January 1, 2007.

SECTION 2D.02. Amends Section 7.056(f), Education Code, to make Sections 39.1321 and 39.1322 applicable to certain school districts under this section.

SECTION 2D.03. Amends Subchapter A, Chapter 11, Education Code, by adding Section 11.004, as follows:

Sec. 11.004. **APPLICABILITY OF TITLE TO EXEMPLARY DISTRICTS AND CAMPUSES.** Provides that a school district or campus rated exemplary under Section 39.072 is subject only to the prohibitions, restrictions, and requirements of this title that apply to an open-enrollment charter school under Section 12.104(b).

SECTION 2D.04. Amends Section 25.005(b), Education Code, to include an end-of-course exit-level assessment along with other exit-level assessment instruments administered in another state as required by a reciprocity agreement in terms of allowing a student to satisfy requirements of Section 39.025.

SECTION 2D.05. Amends Section 28.002(h), Education Code, to include social studies and economics as courses in which the board is required to foster the continuation of the tradition of teaching United States and Texas history and the free enterprise system in regular subject matter.

SECTION 2D.06. Amends the heading to Section 28.0211, Education Code, to read as follows:

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

SECTION 2D.07. Amends Subchapter B, Chapter 28, Education Code, by adding Section 28.0215, as follows:

Sec. 28.0215. **SATISFACTORY PERFORMANCE REQUIRED: END-OF-COURSE ASSESSMENT INSTRUMENTS.** (a) Prohibits a student from receiving course credit for a course described by Section 39.023(c) unless the student performs satisfactorily on the end-of-course assessment instrument for the course.

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

SECTION 2D.08. Amends Subchapter B, Chapter 28, Education Code, by adding Section 28.0216, as follows:

Sec. 28.0216. **LIMITS ON ASSIGNMENT OF STUDENTS TO TEACHERS.** (a) Prohibits a student in kindergarten through grade six from being assigned for two consecutive school years to a teacher who lacks certain qualifications.

(b) Prohibits a student in grade seven through 12, in a subject for which a student is assessed under Section 39.023(a) or (c), from being assigned for two consecutive years to a teacher who lacks certain qualifications.

SECTION 2D.09. Amends Section 28.025, Education Code, by amending Subsections (c), (d), and (e) and adding Subsection (f), as follows:

(e) Deletes existing text requiring certain curriculum requirements to comply with Section 39.025. Makes a nonsubstantive change.

(d) Prohibits, except as provided by Section 39.0241, a person from receiving a diploma unless the person complies with Section 39.025. Authorizes a school district, for each year in which a person must comply with Section 39.025 to receive a diploma, to issue a certificate of coursework completion to a student who successfully completes the curriculum requirements identified by the board under Subsection (a) but who fails to comply with Section 39.025. Provides that this subsection ceases to apply on the date the commissioner certifies that the implementation of amendments made by H.B. No. 2, Acts of the 79th Legislature, Regular Session, 2005, to Sections 39.023(a) and (c) and 39.051(b) is complete under the transition plan adopted under Section 39.0241. Provides that this subsection expires September 1, 2011.

(e) Makes a nonsubstantive change.

(f) Requires the transcript forms adopted by the board under Subsection (e) to be designed to identify whether a student received a diploma or a certificate of coursework completion. Provides that this subsection expires September 1, 2011.

SECTION 2D.10. Amends Section 29.081(b), Education Code, to require each district to provide accelerated instruction to a student enrolled in the district who has taken an end-of-course, rather than a secondary exit-level, assessment instrument administered under Section 39.023(c) and has not performed satisfactorily on the assessment instrument or who is at risk of dropping out of school.

SECTION 2D.11. Amends Subchapter C, Chapter 29, Education Code, by adding Section 29.0822, as follows:

Sec. 29.0822. **OPTIONAL FLEXIBLE SCHOOL DAY PROGRAM.** (a) Authorizes a school district, notwithstanding Section 25.081 or 25.082, to provide a flexible school day program for students in grades nine through 12 who have dropped out of school or who are at risk of dropping out of school.

(b) Authorizes a school district, to enable a school district to provide a program under this section that meets the needs of students described by Subsection (a), to provide for certain policies.

(c) Requires a course offered in a program under this section to provide for at least the same number of instructional hours as required for a course offered in a program that meets the required minimum number of instructional days under Section 25.081 and the required length of school day under Section 25.082.

(d) Authorizes the commissioner to adopt rules for the administration of this section. Requires the commissioner to calculate average daily attendance for at-risk students served under this section. Requires the commissioner to allow accumulations of hours of instruction for students whose schedule would not otherwise allow full state funding. Requires funding under this subsection to be determined based on the number of instructional days in the district calendar and a seven-hour school day, but attendance is authorized to be cumulated over a school year, inclusive of any summer or vacation sessions. Requires the attendance of students who accumulate less than the number of attendance hours required under this subsection to be proportionately reduced for funding purposes. Authorizes the commissioner to set maximum funding amounts for an individual course under this section.

SECTION 2D.12. Amends Section 29.187(b), Education Code, to delete existing text relating to an award granted under this section not being given in lieu of a certificate of coursework completion.

SECTION 2D.13. Amends Section 29.202, Education Code, as follows:

Sec. 29.202. ELIGIBILITY. (a) Defines "adequate yearly progress standard."

(b) Redesignated from existing Subsection (a). Includes a public school campus that has not met the adequate yearly progress standard for the same indicator of educational success for the preceding two years as rendering a student eligible to receive a public education grant or to attend another public school in the district in which the student resides under this subchapter if the student attended said school campus.

(c) Redesignated from existing Subsection (b). Deletes existing text relating to a student's ineligibility for receiving a grant if the student does attends a school that does not meet certain criteria.

SECTION 2D.14. Amends Subchapter G, Chapter 29, Education Code, by adding Section 29.2021, as follows:

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

SECTION 2D.15. Amends Section 29.203(f), Education Code, to provide an exception to this subsection as provided by Section 1116, No Child Left Behind Act of 2001 (20 U.S.C. Section 6316).

SECTION 2D.16. Amends Section 30.021(e), Education Code, to make conforming changes.

SECTION 2D.17. Amends Sections 30.104(b) and (c), Education Code, as follows:

(b) Deletes existing text requiring certain curriculum requirements to comply with Section 39.025.

(c) Prohibits a person, except as provided by Section 39.0241, from receiving a diploma unless the person complies with Section 39.025. Authorizes the Texas Youth Commission educational program, for each year in which a person must comply with Section 39.025 to receive a diploma, to issue a certificate of course-work completion to a student who successfully completes the curriculum requirements identified by the board under Section 28.025(a) but who fails to comply with Section 39.025. Provides that this subsection ceases to apply on the date the commissioner certifies that the implementation of the amendments made by H.B. No. 2, Acts of the 79th Legislature, Regular Session, 2005, to Sections 39.023(a) and (c) and 39.051(b) is complete under the transition plan adopted under Section 39.0241. Provides that this subsection expires September 1, 2011.

SECTION 2D.18. Amends Section 39.023, Education Code, by amending Subsections (a) and (c) and adding Subsections (a-1), as follows:

(a) Amends the age at which and the manner by which students are assessed.

(a-1) Authorizes an assessment instrument under this section to include questions that test a broader range of knowledge and skills or that are at a higher difficulty level for the purpose of differentiating student achievement. Prohibits a student from being required to answer a question described by this subsection correctly to perform satisfactorily on the assessment instrument or to be promoted to the next grade level. Provides that, to ensure a valid bank of questions for use each year, the agency is not required to release a question that is being field-tested until after the fifth school year the question is used on an assessment instrument administered under this section.

(c) Requires TEA to also adopt end-of-course assessment instruments for secondary-level courses in certain courses determined by rule by the commissioner. Provides that the performance level established by the Texas Higher Education Coordinating Board

under this subsection represents the level of academic achievement indicating a student is prepared for college course work. Authorizes the performance level to be used as an indicator to measure progress toward college preparedness of public school students in this state. Deletes existing text relating to courses included as necessary for the end-of-course assessments. Makes conforming changes.

SECTION 2D.19. Amends Subchapter B, Chapter 39, Education Code, by adding Section 39.0232, as follows:

Sec. 39.0232. COMPUTER-ADAPTIVE ASSESSMENT. (a) Requires TEA to provide for assessment instruments required under Section 39.023 to be designed so that those assessment instruments can be computer-adaptive.

(b) Requires TEA, to the extent practicable and appropriate, to require school districts to administer to students the computer-adaptive assessment instruments.

(c) Requires TEA to implement this section not later than March 1, 2006. Provides that this subsection expires September 1, 2006.

SECTION 2D.20. Amends Section 39.024, Education Code, by amending Subsection (a) and adding Subsections (b) and (b-1), as follows:

(a) Authorizes the board to require a level of performance on assessment instruments for determining district or campus performance under Subchapter D that is higher than the level of performance considered to be satisfactory for a student to be promoted from one grade level to the next.

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

(b-1) Provides that Subsection (b) applies beginning with the 2006-2007 school year. Provides that this subsection expires September 1, 2007.

SECTION 2D.21. Amends Subchapter B, Chapter 39, Education Code, by adding Section 39.0241, as follows:

Sec. 39.0241. TRANSITION PLAN FOR USE OF ASSESSMENT INSTRUMENTS. (a) Requires the commissioner by rule to adopt a transition plan to implement the amendments made by H.B. No. 2, Acts of the 79th Legislature, Regular Session, 2005, to Sections 39.023(a) and (c) and 39.051(b)(5). Requires the rules to provide for the administration of end-of-course assessment instruments adopted under Section 39.023(c) to begin as soon as practicable but not later than the 2008-2009 school year. Provides that, during the period under which the transition to end-of-course assessment instrument is made, certain entities are authorized to perform certain functions.

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

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

(d) Provides that this section expires September 1, 2009.

SECTION 2D.22. Amends Section 39.025, Education Code, by adding Subsections (d), (e), and (f), as follows:

(d) Requires the commissioner by rule, notwithstanding Subsection (a), to adopt one or more alternative nationally recognized norm referenced assessment instruments under this section to administer to a student to qualify for a high school diploma if the student enrolls after January 1 of the school year in which the student is otherwise eligible to graduate under certain circumstances.

(e) Requires the commissioner to establish a required performance level for an assessment instrument adopted under Subsection (d) that is at least as rigorous as the performance level for the secondary exit-level assessment instrument for the same subject.

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

SECTION 2D.23. Amends Subchapter B, Chapter 39, Education Code, by adding Section 39.0261, as follows:

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

(b) Requires school districts, in addition to the assessment instruments otherwise authorized or required by this subchapter, to administer to students in the 10th grade a valid, reliable, and nationally normed assessment instrument that promotes rigorous high school course-taking and college readiness, such as the Plan test (ACT) or the PSAT/NMSQT.

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

(d) Requires TEA to take certain actions relating to the administration of assessment instruments.

(e) Requires TEA to compile the results of any assessment instrument administered under this section and make the results available through the Public Education Information Management System (PEIMS).

SECTION 2D.24. Amends Subchapter B, Chapter 39, Education Code, by adding Section 39.034, as follows:

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

(b) Requires TEA, each year, for each student who takes an assessment instrument required under Section 39.023(a), (b), or (1), to use the method adopted under Subsection (a) to compare the student's results on the assessment instrument to the student's results on any assessment instrument for that subject the student has taken during the preceding school year.

(c) Requires TEA to maintain a record of the comparisons made under this section. Requires TEA, each year, to provide certain records to certain entities.

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

(e) Requires the commissioner to implement this section not later than September 1, 2006. Provides that this subsection expires January 1, 2008.

SECTION 2D.25. Reenacts and amends Section 39.051(b), Education Code, as amended by Chapters 433 and 805, Acts of the 78th Legislature, Regular Session, 2003, to amend the information on which the indicators must be based in regards to determining performance progress from year to year. Makes conforming changes.

SECTION 2D.26. Amends Section 39.051(d), Education Code, to make conforming changes.

SECTION 2D.27. Amends Section 39.052, Education Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Includes a summary of the district's significant noninstructional expenditures, as determined under Section 44.0072 as information required to be included in the campus report card. Makes conforming changes.

(d) Requires the commissioner to develop a methodology for categorizing campuses that have similar demographic characteristics into peer groups for comparison. Requires the commissioner to take certain information into consideration in establishing criteria to categorize campuses under this section.

SECTION 2D.28. Amends Section 39.072, Education Code, by amending Subsection (d) and adding Subsection (c-1), as follows:

(c-1) Provides that a public school campus is subject to Sections 39.1321 and 39.1322 if the campus meets certain criteria.

(d) Provides that, notwithstanding any other provision of this code, for purposes of determining the performance of a school district or open-enrollment charter school under this chapter, including the academic performance rating, rather than the accreditation status, of the district or school, a campus that is a facility operated by or under contract with the Texas Youth Commission or a pre-adjudication secure detention facility or a post-adjudication secured correctional facility that is registered with the Texas Juvenile Probation Commission is not considered to be a part of the school district or open-enrollment charter school that operates the campus. Requires the performance of a student that attends such a campus on an assessment instrument or other academic excellence indicator adopted under Section 39.051 to be determined and reported, but is prohibited from being used to determine the rating of the school district or open-enrollment charter school unless the campus is the only campus operated by the district or school. Deletes existing text relating to provisions of this section. Makes conforming changes.

SECTION 2D.29. Amends Subchapter F, Chapter 39, Education Code, by adding Section 39.113, as follows:

Sec. 39.113. STATE INCENTIVE PROGRAM FOR IMPROVING STUDENT PERFORMANCE ON AT-RISK CAMPUSES. (a) Requires the commissioner to adopt rules to create an incentive award system for annual growth in student achievement. Provides that a school that achieves incremental growth in student achievement, as described in Subsection (b), is eligible for an award if the school satisfies certain conditions.

(b) Requires the commissioner by rule to adopt performance criteria to measure annual growth in student academic performance. Requires the commissioner to consider certain criteria, as applicable.

(c) Requires the commissioner, from funds appropriated for the purpose of this section, to award grants to campuses that meet performance criteria adopted under Subsection (b). Requires the commissioner to allocate awards to campuses not later than December 1 of each year, based on growth in student achievement as measured for the preceding two school years.

(c-1) Requires the commissioner to award grants under this section beginning September 1, 2006. Provides that this subsection expires January 1, 2007.

(d) Requires at least 75 percent of an award under this section to be used for additional teacher compensation at the campus level. Requires the commissioner by rule to provide for allocating awards under this subsection, including providing individual awards of at least \$7,500 for each teacher at a campus receiving an award under this subsection.

(e) Prohibits grants from funds appropriated for the award program from exceeding \$100 million each year except as expressly authorized by the General Appropriations Act or other law.

(f) Provides that a determination of the commissioner under this section is final and is prohibited from being appealed.

SECTION 2D.30. Amends Section 39.131, Education Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Makes conforming changes.

(c) Requires the commissioner to order the closure of all programs operated under the charter of an open-enrollment charter school if a majority of the campuses operated by the charter holder have received an unsatisfactory rating as determined by the commissioner for a period of two years or more.

SECTION 2D.31. Amends Subchapter G, Chapter 39, Education Code, by adding Sections 39.1321 and 39.1322, as follows:

Sec. 39.1321. **SANCTIONS FOR LOWEST-PERFORMING CAMPUSES.** (a) Provides that this section applies only to a campus that meets certain criteria.

(b) Requires the commissioner, notwithstanding Sections 39.131 and 39.132, to take certain actions relating to low-performing campuses.

(c) Requires the commissioner to identify campuses subject to this section under Subsection (b) not later than August 1 following the school year in which the campus was rated. Requires the commissioner, if a campus is rated as described by Subsection (a) for one school year, not later than October 1 after identifying the campus, to select and assign a technical assistance team to assist the campus in executing a school improvement plan and any other school improvement strategies the commissioner determines appropriate, including providing supplemental services to students as described by the No Child Left Behind Act of 2001 (Pub. L. No. 107-110).

(d) Requires the commissioner, if a campus is rated as described by Subsection (a) for two consecutive school years, to pursue alternative management under Section 39.1322. Requires the commissioner to identify a campus subject to this section under Subsection (b) not later than November 1 of the school year following the second consecutive school year in which the campus was rated as described by Subsection (a).

Sec. 39.1322. MANAGEMENT OF LOWEST-PERFORMING CAMPUSES. (a) Provides that a campus is subject to this section if for two consecutive school years the campus meets certain requirements.

(b) Requires the commissioner to solicit proposals from qualified entities to assume management of a campus subject to this section under a management contract with TEA.

(c) Provides that, if the commissioner determines that the basis for the rating for a campus under Subsection (a) is limited to a specific condition that may be remedied with targeted technical assistance from TEA, the commissioner is authorized and required to take certain measures.

(d) Requires the commissioner to solicit proposals under Subsection (b) not later than November 30 of the school year following the second consecutive school year in which the campus was rated as described by Subsection (a). Requires the commissioner to notify a qualified entity whose proposal has been accepted to manage a campus under this section not later than the following April 15. Requires control of the campus management to be relinquished to the managing entity under this section with a reasonable period after the end of the school year.

(e) Requires a person to have certain qualifications to qualify for consideration as a managing entity under this section.

(f) Authorizes the commissioner to negotiate the term of a management contract for not more than five years with an option to renew the contract. Requires the commissioner to negotiate a memorandum of understanding between the commissioner, the managing entity, and the board of trustees of the school district in which the campus is located. Requires the memorandum of understanding to have the same term as the management contract and include a provision describing the district's responsibilities in supporting the operation of the campus. Authorizes the commissioner, as appropriate, to require the district to support the campus in the same manner as the district was required to support the campus before the execution of the management contract.

(g) Requires the commissioner to require a provision, including negotiated performance measures, in the management contract to demonstrate improvement in campus performance. Requires the performance measures to be consistent with the priorities of this chapter. Requires the commissioner to evaluate the managing entity's performance on the first and second anniversary of the date of the management contract. Authorizes the commissioner, if the evaluation fails to demonstrate improvement as negotiated under the contract, to terminate the management contract for nonperformance or breach of contract and requires the commissioner to solicit proposals from qualified entities to assume management of a campus as provided by this section. Authorizes the commissioner, if campus performance continues to be rated in the bottom 10 percent in the TEA'S evaluation under Section 39.072(c) on the third anniversary of the initial contract date or any annual date after that date, to terminate the management contract with the managing entity for nonperformance or breach of contract and solicit proposals from qualified entities as provided by this section.

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

(i) Provides that each campus operated by a managing entity under this section is subject to this chapter in the same manner as any other campus in the district.

SECTION 2D.32. Amends Subchapter G, Chapter 39, Education Code, by adding Section 39.1371, as follows:

Sec. 39.1371. INTERVENTION OPERATIONS. (a) Provides that TEA is responsible for managing an intervention of a campus subject to sanctions under this subchapter.

(b) Requires a person, to be employed as an intervention manager in the school intervention management division, to demonstrate certain qualities.

(c) Requires TEA to monitor the progress of special campus intervention teams appointed by the commissioner under this subchapter and provide semiannual reports to the commissioner on the status of performance improvement.

(d) Requires TEA to supervise the activities of the management entities under Section 39.1322 and provide semiannual reports to the commissioner on the status of performance improvement.

(e) Requires TEA to take certain actions relating to school and campus improvement activities, including establish by rule and publish school improvement objectives.

(f) Authorizes the commissioner to contract for services under this section.

SECTION 2D.33. Amends Sections 39.182(a) and (b), Education Code, as follows:

(a) Includes certain information required to be contained in the comprehensive report covering the preceding school year. Makes conforming changes.

(b) Makes a conforming change.

SECTION 2D.34. Amends Section 39.183, Education Code, to make a conforming change.

SECTION 2D.35. Amends Section 39.202, Education Code, as follows:

Sec. 39.202. DEVELOPMENT AND IMPLEMENTATION. (a) Sets forth certain functions of a financial accountability rating system for school districts.

(b) Requires the system to include standards, rather than uniform indicators, adopted by the commissioner by which to measure a district's financial management performance. Requires the commissioner to develop a uniform system for reporting district and campus financial information. Requires the commissioner by rule to require each district to use standard accepted cost accounting practices for reporting district and campus level expenditures.

(c) Requires the uniform system adopted under Subsection (b) to include standards to determine a district's actual financial expenditures for each campus. Requires a district to identify and report each expenditure separately and prohibits a district from reporting district-wide averages or using other allocation formulas other than district level expenditures for overhead or administrative costs, which may be allocated to campuses. Sets forth what the required reporting standards include.

(d) Requires the commissioner to develop and implement certain procedures and formats.

(e) Requires a district and campus to report information at least quarterly each year.

(f) Sets forth the essential purposes to be accomplished by the financial accountability system.

(g) Requires the software application used for the financial accountability system under this section to be designed to systematically evaluate school districts, component campuses, and open-enrollment charter schools. Requires the system to perform certain functions.

SECTION 2D.36. Amends Section 39.203(b), Education Code, to amend the information the financial management report is required to include. Makes conforming changes.

SECTION 2D.37. Amends Chapter 39, Education Code, by adding Subchapter J, as follows:

#### SUBCHAPTER J. NOTICE OF PERFORMANCE

Sec. 39.251. NOTICE IN STUDENT GRADE REPORT. Requires the first written notice of a student's performance that a school district gives during a school year as required by Section 28.022(a)(2) to include certain information.

Sec. 39.252. NOTICE ON DISTRICT WEBSITE. Requires a school district that maintains an Internet website, not later than the 10th day after the first day of instruction of each school year, to make certain information available to the public on the website.

SECTION 2D.38. Amends Subchapter A, Chapter 44, Education Code, by adding Section 44.0072, as follows:

Sec. 44.0072. NONINSTRUCTIONAL EXPENDITURES. (a) Requires a school district, each fiscal year, to compute and report certain information through PEIMS to the commissioner.

(b) Authorizes the commissioner to determine, in a manner consistent with Section 44.0071, whether an expenditure is noninstructional.

SECTION 2D.39. Amends Section 51.3062(q), Education Code, to make conforming changes.

SECTION 2D.40. (a) Requires TEA to collect certain information not later than the 2006-2007 school year.

(b) Requires TEA, not later than the 2007-2008 school year, to include certain information in evaluating the performance of school districts, campuses, and open-enrollment charter schools under Subchapter D, Chapter 39, Education Code.

SECTION 2D.41. Requires the commissioner to take certain actions relating to reporting procedures for school campuses.

#### PART E. BILINGUAL EDUCATION AND SPECIAL LANGUAGE PROGRAMS

SECTION 2E.01. Amends Section 28.006(j), Education Code, to make a conforming change.

SECTION 2E.02. Amends Section 29.056(g), Education Code, to authorize a district to transfer a student of limited English proficiency out of a bilingual education or special language program for the first time or a subsequent time if the student is able to participate equally in a regular all-English instructional program as determined by certain factors.

SECTION 2E.03. Amends Subchapter B, Chapter 29, Education Code, by adding Section 29.0561, as follows:

Sec. 29.0561. CONSIDERATION; REENROLLMENT. (a) Requires the language proficiency assessment committee, for the first two school years after a student is transferred out of a bilingual education or special language program under Section 29.056(g), to consider certain factors.

(b) Requires the language proficiency assessment committee, if, during any grading period during the first two school years after a student is transferred out

of a bilingual education or special language program under Section 29.056(g), the student earns a failing grade in a subject in the foundation curriculum under Section 28.002(a)(1), to reevaluate the student to determine if the student should reenroll in the bilingual education or special language program. Authorizes the committee, based on the reevaluation, to arrange for intensive instruction for the student or to reenroll the student in the program.

SECTION 2E.04. Amends Subchapter B, Chapter 29, Education Code, by adding Section 29.065, as follows:

Sec. 29.065. MEASURE OF PROGRESS TOWARD ENGLISH LANGUAGE PROFICIENCY. Requires the commissioner by rule to develop a longitudinal measure of progress toward English language proficiency under which a student of limited English proficiency is evaluated from the time the student enters public school until, for two consecutive school years, the student scores at a specific level determined by the commissioner on the reading assessment instrument under Section 39.023(a) or the English I and II assessment instrument under Section 39.023(c), as applicable. Requires the commissioner to take certain actions relating to measuring a student's progress.

SECTION 2E.05. Amends Sections 39.072(b) and (c), Education Code, to make conforming changes.

SECTION 2E.06. Amends Sections 39.073(a) and (b), Education Code, to make conforming changes.

SECTION 2E.07. Amends Section 39.074(e), Education Code, to make a conforming change.

#### PART F. HIGH ACADEMIC ACHIEVEMENT PROGRAMS

SECTION 2F.01. Amends Subchapter D, Chapter 29, Education Code, by adding Section 29.127, as follows:

Sec. 29.127. TEXAS GOVERNOR'S SCHOOLS. (a) Defines "public senior college or university."

(b) Provides that a Texas governor's school is a summer residential program for high-achieving high school students. Authorizes a Texas governor's school program to include any or all of certain education curricula.

(c) Authorizes a public senior college or university to apply to the commissioner to administer a Texas governor's school program under this section. Requires the commissioner to give preference to a public senior college or university that applies in cooperation with a nonprofit association. Requires the commissioner to give additional preference if the nonprofit association receives private foundation funds that may be used to finance the program.

(d) Authorizes the commissioner to approve an application under this section only if the applicant satisfies certain conditions.

(e) Authorizes the commissioner, from funds appropriated for the purpose, to make a grant to pay the costs of administering a Texas governor's school program to a public senior college or university whose application is approved under this section.

(f) Authorizes the commissioner to adopt other rules necessary to implement this section.

SECTION 2F.02. Amends Section 39.051, Education Code, by adding Subsection (b-1), as follows:

(b-1) Requires the board, in addition to the indicators adopted under Subsection (b), to adopt certain indicators relating to high academic achievement to be considered in assigning a district an exemplary performance rating under Section 39.072.

SECTION 2F.03. Amends Section 39.053(a), Education Code, require the annual performance report of a school district to include information relating to high academic achievement in the district, as determined by the district's performance on the indicators under Section 39.051(b-1). Makes conforming changes.

SECTION 2F.04. Amends Section 39.072, Education Code, by adding Subsection (c-1), as follows:

(c-1) Requires TEA, for purposes of assigning a district, campus, or open-enrollment charter school a performance rating of exemplary under this section, to consider the district's, campus's, or school's performance on the indicators relating to high academic achievement under Section 39.051(b-1). Provides that this information is in addition to any other indicators or factors considered by TEA in assigning a performance rating.

SECTION 2F.05. Amends Section 39.0721(c), Education Code, to amend the performance standards on which a gold performance rating is based to include performance on indicators relating to high academic achievement under Section 39.051(b-1). Makes conforming changes.

SECTION 2F.06. (a) Requires TEA, not later than the 2006-2007 school year, to collect information concerning high academic achievement for purposes of Section 39.051(b-1), Education Code, as added by this Act.

(b) Requires TEA, not later than the 2007-2008 school year, to include information concerning high academic achievement purposes of Section 39.051(b-1), Education Code, as added by this Act, in evaluating the performance of school districts, campuses, and open-enrollment charter schools under Subchapter D, Chapter 39, Education Code.

(c) Requires TEA, not later than the 2007-2008 school year, to include the information required by Section 39.182(a)(21), Education Code, as amended by this Act, in the agency's comprehensive annual report under Section 39.182, Education Code.

#### PART G. PREKINDERGARTEN PROGRAMS

SECTION 2G.01. Amends Section 29.1532, Education Code, by amending Subsection (b) and adding Subsections (d) and (e), as follows:

(b) Requires a school district's prekindergarten program, including a program operated by a private entity contracting with the district, to at a minimum comply with the applicable child-care licensing standards adopted by the Department of Family and Protective Services under Section 42.042, Human Resources Code. Requires the board to adopt rules designed to ensure the school district's compliance with the standards.

(d) Requires a school district, before it is authorized to implement a prekindergarten program, to take certain actions relating to sharing and coordinating the use of sites.

(e) Requires a school district to implement to the greatest extent possible coordinated use of licensed child-care and Head Start sites with existing prekindergarten programs.

SECTION 2G.02. Provides that a school district's prekindergarten program established before September 1, 2005, is not required to comply with the applicable child-care standards adopted by the Department of Family and Protective Services, as required by Section 29.1532(b), Education Code, as amended by this Act, until September 1, 2008.

#### PART H. CHARTER SCHOOLS

SECTION 2H.01. Amends Section 12.1054, Education Code, by adding Subsection (a-1), to provide that Section 11.170 applies to a member of the governing body of a charter holder or a member of the governing body of an open-enrollment charter school.

### ARTICLE 3. CONFORMING AMENDMENTS.

SECTION 3.01. Amends Section 7.024(a), Education Code, to provide that the investment capital fund consists of money appropriated by the legislature for that purpose, rather than money transferred to the fund as provided by Section 42.152(1).

SECTION 3.02. Amends Section 7.055(b)(34), Education Code, to require the commissioner to perform duties in connection with equalization actions, rather than the equalized wealth level, under Chapter 41. Makes a conforming change.

SECTION 3.03. Amends Section 8.051(d), Education Code, to amend the core services of each regional education service center by providing that training and assistance in providing a gifted and talented program under Subchapter D, Chapter 29 is required.

SECTION 3.04. Amends Section 11.158(a), Education Code, to delete existing text relating to certain transportation fees.

SECTION 3.05. Amends Section 12.013(b), Education Code, to make conforming changes.

SECTION 3.06. Amend Section 12.106(a), Education Code, to entitle a charter holder to receive for the open-enrollment charter school funding under Chapter 42 as if the school were a school district without a tier one local share for purposes of Section 42.306, rather than Section 42.253, and without any local revenue for purposes of Section 42.25, rather than Section 42.302. Amends existing text relating to determining funding for an open-enrollment charter school. Makes conforming changes.

SECTION 3.07. Amends Section 13.054(f), Education Code, to make conforming changes.

SECTION 3.08. Amends Sections 13.282(a) and (b), Education Code, to make conforming changes.

SECTION 3.09. Amends Section 21.410(h), Education Code, to make conforming changes.

SECTION 3.10. Amends Section 21.411(h), Education Code, to make a conforming change.

SECTION 3.11. Amends Section 21.412(h), Education Code, to make a conforming change.

SECTION 3.12. Amends Section 21.413(h), Education Code, as added by Section 2, Chapter 430, Acts of the 78th Legislature, Regular Session, 2003, to make a conforming change.

SECTION 3.13. Amends Section 22.004(c), Education Code, to make Chapter 1579 (Texas School Employees Uniform Group Health Coverage), Insurance Code, applicable to this section rather than previously noted statutes.

SECTION 3.14. Amends Section 29.008(b), Education Code, to make conforming changes.

SECTION 3.15. Amends Section 29.014(d), Education Code, to provide that the accreditation, rather than the basic, allotment for a student enrolled in a district to which this section applies is adjusted by certain factors.

SECTION 3.16. Amends Section 29.087(j), Education Code, to make a conforming change.

SECTION 3.17. Amends Section 29.203(b), Education Code, to entitle a school district to the allotment provided by Section 42.155, rather than Section 42.157, for each eligible student using a public education grant. Deletes existing text relating to certain other entitlements. Makes a conforming change.

SECTION 3.18. Amends Section 31.025(a), Education Code, effective September 1, 2006, to require the board to set a limit on the cost that may be paid using the allotment provided by Section 42.241, rather than from the textbook fund, as it relates to this subsection.

SECTION 3.19. Amends Section 31.1031, Education Code, effective September 1, 2006, to amend the district or school's entitlements regarding requisitioned textbooks

SECTION 3.20. Amends Section 31.105, Education Code, effective September 1, 2006, to authorize money from the sale of textbooks to be used only to purchase items that may be purchased lawfully using the allotment provided by Section 42.241. Deletes existing text relating to the commissioner's involvement in said transaction. Makes a conforming change.

SECTION 3.21. Amends Section 31.151(d), Education Code, effective September 1, 2006, to make a conforming change.

SECTION 3.22. Amends Section 31.152(b), Education Code, effective September 1, 2006, to make a conforming change.

SECTION 3.23. Amends Section 32.005, Education Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Entitles each school district to an allotment of \$70, rather than \$30, for each student in average daily attendance or a different amount for any year provided by appropriation.

(d) Provides that this section expires August 1, 2006.

SECTION 3.24. Amends Section 32.161(b), Education Code, to require the commissioner and TEA, to the extent possible considering other statutory requirements, to encourage the use of textbook funds and any other funds provided to school districts for technology, rather than technology allotment funds under Section 31.021(b)(2), in a manner that facilitates the development and use of the portal.

SECTION 3.25. Amends Section 34.002(c), Education Code, to make a conforming change.

SECTION 3.26. Amends Section 37.0061, Education Code, to delete existing text regarding the payment of certain education-related costs.

SECTION 3.27. Amends Section 39.031, Education Code, as follows:

Sec. 39.031. COST. (a) Requires the commissioner to set aside an appropriate amount from the program to pay the cost of preparing, administering, or grading the assessment instruments and the cost of releasing the question and answer keys under Section 39.023(e). Deletes existing text relating to the payment of certain costs.

(b) Requires the commissioner, after setting aside an appropriate amount in accordance with this section, to reduce each district's tier one allotments proportionately. Provides that a reduction in tier one allotments under this subsection does not affect the computation of the guaranteed amount of revenue per student per cent of tax effort under Section 42.252.

(c) Requires any amount set aside under this section to be approved by LBB and the governor's office of budget, planning, and policy.

SECTION 3.28. Amends Section 39.134, Education Code, to make a conforming change.

SECTION 3.29. Amends Section 43.002(b), Education Code, to make conforming changes.

SECTION 3.30. Amends Section 44.004, Education Code, by amending Subsections (b), (e), and (i) and adding Subsections (b-1) and (b-2), as follows:

(b) Provides an exception as provided by Subsection (b-2).

(b-1) Prohibits the notice of the public meeting to discuss and adopt the budget and the proposed tax rate from being smaller than one-quarter page of a standard-size or a tabloid-size newspaper, and requires the headline on the notice to be in 18-point or larger type.

(b-2) Authorizes a school district, instead of publishing notice in the manner prescribed by Subsection (b), to publish the required notice on its Internet website not earlier than the 30th day or later than the 10th day before the date of the hearing. Requires a school district that publishes notice under this subsection to have a link on its Internet website that is clearly identified as the link to the public notice for the budget and proposed tax rate meeting.

(e) and (i) Make conforming changes.

SECTION 3.31. Amends Section 46.003(a), Education Code, to make conforming changes.

SECTION 3.32. Amends Section 46.006(g), Education Code, to make a conforming change.

SECTION 3.33. Amends Sections 46.009(b), (e), and (f), Education Code, to make conforming changes.

SECTION 3.34. Amends Section 46.013, Education Code, to make a conforming change.

SECTION 3.35. Amends Section 46.032(a), Education Code, to make conforming changes.

SECTION 3.36. Amends Section 46.037, Education Code, to make a conforming change.

SECTION 3.37. Amends Section 56.208, Education Code, to make conforming changes.

SECTION 3.38. Amends Section 105.301(e), Education Code, to make a conforming change.

SECTION 3.39. Amends Section 403.093(d), Government Code, to make conforming changes.

SECTION 3.40. Amends Section 403.302(k), Government Code, to make a conforming change.

SECTION 3.41. Amends Section 404.121(l), Government Code, to make a conforming change.

SECTION 3.42. Amends Section 466.355(c), Government Code, to make conforming changes.

SECTION 3.43. Amends Section 822.201(c), Government Code, to include amounts received under the educator excellence incentive program under Subchapter J, Chapter 42, Education Code, rather than contributions to a health reimbursement arrangement account received by an employee under Article 3.50-8, Insurance Code, as excluded from salary wages.

SECTION 3.44. Amends Section 2175.304(c), Government Code, to require the procedures established under Subsection (b) to give preference to transferring the property directly to a public school or school district or to an assistance organization designated by the school district before disposing of the property in another manner. Requires, if more than one public school or school district or assistance organization seeks to acquire the same property on substantially the same terms, the system, institution, or agency to give preference to a public school that is considered low-performing by the commissioner or to a school district that has relatively low, rather than taxable, wealth per student, as determined by the commissioner, or to the assistance organization designated by such a school district. Deletes existing text relating to a district's entitlement to certain state funds as specified in statute.

SECTION 3.45. Amends Section 1579.251, Insurance Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Requires the state contribution to be distributed through the school finance formulas under Chapters 41 and 42, Education Code, and used by school districts and charter

schools to pay contributions under a group health coverage plan for employees. Deletes existing text relating to the distribution of funds as provided by statutes.

(c) Entitles a school district or charter school that does not participate in the uniform group coverage program to state assistance computed and distributed as provided by Subsection (a). Requires state funds received under this subsection to be used to pay for employee health coverage.

SECTION 3.46. Amends Section 1581.702, Insurance Code, to require the state to provide additional support for a school district to which this section applies in an amount computed by multiplying the total amount of supplemental compensation that district employees would have received under Chapter 1580, as it existed on January 1, 2005, by 0.062.

SECTION 3.47. Amends Section 6.02(b), Tax Code, to delete existing text relating to school districts being selected to participate in a single appraisal district.

SECTION 3.48. Amends Section 21.02(a), Tax Code, to make conforming and nonsubstantive changes.

SECTION 3.49. Amends Section 313.029, Tax Code, to make a nonsubstantive change.

SECTION 3.50. Amends Section 39.901(d), Utilities Code, to make conforming changes.

#### ARTICLE 4. REPEALER; APPLICABILITY; EFFECTIVE DATE

SECTION 4.01. Repealers: (a) Sections 1-3 and 57, Chapter 201 , Acts of the 78th Legislature, Regular Session, 2003.

(b) Chapter 313, Acts of the 78th Legislature, Regular Session, 2003.

(c) Section 1.01, Chapter 366, Acts of the 78th Legislature, Regular Session, 2003.

(d) Subchapters B (Consolidation by Agreement), C (Detachment and Annexation by Agreement), E (Education of Nonresident Students), F (Tax Base Consolidation), and G (Detachment and Annexation by Commissioner), Chapter 41 (Equalized Wealth Level), Education Code.

Chapter 42 (Foundation School Program), Education Code, as it existed on January 1, 2005.

Sections 21.357 (Performance Incentives), 21.402(b) and (e) (Minimum Salary Schedule for Certain Professional Staff), 25.0811(b) and (c) (First Day of Instruction), 29.056(h) (Enrollment of Students in Program), 29.203(c) and (g) (Financing), 33.002 (Certified Counselor), 39.023(j) (Adoption and Administration of Instruments), 39.024(e) (Satisfactory Performance), 39.112 (Excellence Exemptions), 41.001 (Definitions), 41.002 (Equalized Wealth Level), 41.003 (Options to Achieve Equalized Wealth Level), 41.0031 (Inclusion of Attendance Credits and Nonresidents in Weighted Average Daily Attendance), 41.007 (Commissioner to Approve Subsequent Boundary Changes), 41.009(b) (Tax Abatements), 41.011 (Contingency), 41.092 (Credit), 41.099 (Limitation), 41.252(b) (Selection Criteria), 44.004(c) and (d) (Notice of Budget and Tax Rate Meeting; Budget Adoption), and 105.301(f) (Establishment; Scope), Education Code.

(e) Section 31.021 (State Textbook Fund), Education Code, on September 1, 2006.

(f) Section 403.302(j) (Determination of School District Property Values), Government Code.

(g) Section 1579.253(b) (Contribution by Employee), Chapter 1580 (Active Employee Health Coverage or Compensation Supplementation), Section 1581.053(b) (Use of State Funds), and Subchapter C (State Assistance for Meeting Minimum Effort), Chapter 1581 (Employer Expenditures for Employee Health Coverage Plans), Insurance Code.

(h) Sections 21.02(b) (Tangible Personal Property Generally) and 26.08(k), (l), and (m) (Election to Ratify School Taxes), Tax Code.

SECTION 4.02. Provides that, if any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 4.03. Provides that, except as otherwise provided by this Act, this Act applies beginning with the 2005-2006 school year.

SECTION 4.04. Provides that, except as otherwise provided by this Act, this Act takes effect September 1, 2005. Provides that this Act only takes effect if H.B. No. 3, Acts of the 79th Legislature, Regular Session, 2005 becomes law. Provides that if that bill does not become law, this Act has no effect.