

# SIXTY-SEVENTH DAY

(CONTINUED)

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WEDNESDAY, MAY 11, 2005

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## PROCEEDINGS

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### AFTER RECESS

The Senate met at 12:00 noon and was called to order by Senator Armbrister.

### CO-SPONSOR OF HOUSE BILL 1611

On motion of Senator Armbrister, Senator West will be shown as Co-sponsor of **HB 1611**.

### BILLS SIGNED

The Presiding Officer announced the signing of the following enrolled bills in the presence of the Senate after the captions had been read:

**SB 286, SB 489, SB 599, SB 728, SB 1211, SB 1224, SB 1428.**

### PHYSICIAN OF THE DAY

Senator Eltife was recognized and presented Dr. Clark Langley of Kilgore as the Physician of the Day.

The Senate welcomed Dr. Langley and thanked him for his participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

### SENATE BILL 879 WITH HOUSE AMENDMENT

Senator Gallegos called **SB 879** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

### Floor Amendment No. 1

Amend **SB 879** on page 2 by striking lines 11 and 12 and inserting in lieu thereof the following:

SECTION 3. Section 419.063, Government Code, is amended by amending subsection (c) and adding subsection (d) to read as follows:

(c) The commission may not use money appropriated for scholarships, grants, loans, and other financial assistance to be awarded under this subchapter for the administrative expenses ~~of the commission or~~ of the funds allocation advisory committee.

The amendment was read.

Senator Gallegos moved to concur in the House amendment to **SB 879**.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Nelson.

### RESOLUTION SIGNED

The Presiding Officer announced the signing of the following enrolled resolution in the presence of the Senate: **HCR 185**.

### MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 11, 2005

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

**HB 85**, Relating to the release on bond of certain criminal defendants.

**HB 260**, Relating to suits affecting the parent-child relationship and protective orders.

**HB 270**, Relating to court-ordered access to a child by the child's sibling.

**HB 625**, Relating to the discipline of public school students who voluntarily surrender prohibited items.

**HB 955**, Relating to the regulation of financial businesses and practices; providing civil penalties.

**HB 972**, Relating to the continuation and functions of the Texas Board of Chiropractic Examiners; providing a criminal penalty.

**HB 984**, Relating to the care of elementary and secondary school students with diabetes.

**HB 988**, Relating to the county in which a seller of a motor vehicle may file an application for registration and certificate of title.

**HB 1068**, Relating to the collection and analysis of evidence and testimony based on forensic analysis, crime laboratory accreditation, DNA testing, and the creation and maintenance of DNA records; providing a penalty.

**HB 1074**, Relating to the punishment for the offense of obscenity.

- HB 1120**, Relating to certain requirements relating to an application for a marriage license and an affidavit of an absent applicant for a marriage license and to the maintenance of marriage and divorce indexes by the bureau of vital statistics; providing penalties.
- HB 1317**, Relating to the licensing and regulation of certain electricians.
- HB 1318**, Relating to the state providing grave markers for certain members of the state military forces.
- HB 1366**, Relating to the regulation of nursing.
- HB 1379**, Relating to the admissibility in a civil action of certain information relating to identify theft.
- HB 1532**, Relating to rates for professional liability insurance for physicians and health care providers.
- HB 1535**, Relating to the continuation and functions of the Texas Midwifery Board.
- HB 1547**, Relating to the form of the loan contract and related documents for a consumer loan.
- HB 1572**, Relating to the recovery of certain costs and payments relating to losses covered by personal automobile insurance.
- HB 1582**, Relating to a study of residential foreclosures in certain counties.
- HB 1644**, Relating to the authority of a water control and improvement district or a municipal utility district to enter into a contract to convey property to another water district or water supply corporation and the authority of a conservation and reclamation district to acquire a certificate of convenience and necessity or to acquire a facility or a right to use a facility.
- HB 1767**, Relating to the regulation of veterinary medicine.
- HB 1816**, Relating to the transfer of powers and duties over railroads from the Railroad Commission of Texas to the Texas Department of Transportation.
- HB 1821**, Relating to the authority of a county to require waste haulers to be licensed as a waste hauler.
- HB 1830**, Relating to the notice provided for the establishment of municipal management districts.
- HB 1940**, Relating to alternative dispute resolution of certain contract claims against the state.
- HB 1952**, Relating to prohibiting a governmental body from disclosing a person's social security number to a member of the public in certain circumstances without the person's written consent.
- HB 2145**, Relating to prohibiting changes in certain prescription drug orders without the approval of the prescribing health care practitioner.

**HB 2187**, Relating to the exemption from ad valorem taxation of rent-to-own property not held by the lessee primarily to produce income and to the method to be used to depreciate taxable rent-to-own property for tax appraisal purposes.

**HB 2215**, Relating to the operation of property owners' associations.

**HB 2239**, Relating to homeland security training and supplemental pay for certain law enforcement officers.

**HB 2303**, Relating to the regulation of and rights of private security personnel.

**HB 2376**, Relating to the environmental regulation and remediation of dry cleaning facilities; imposing a penalty.

**HB 2390**, Relating to the establishment of an employee welfare benefit plan by certain private educational institutions.

**HB 2463**, Relating to the creation of a Medicaid health literacy pilot program and health care funding districts in certain counties and authorizing the districts to impose taxes on certain institutional health care providers located in the districts.

**HB 2525**, Relating to contracts by governmental entities for construction projects and related professional services and to public works performance and payment bonds.

**HB 2572**, Relating to the functions of local mental health and mental retardation authorities.

**HB 2668**, Relating to the performance by a private entity of the functions of a local child support registry or a child support enforcement agency and to the receipt, disbursement, and monitoring of child support payments.

**HB 2696**, Relating to the licensing and regulation of massage therapy and massage establishments and certain services related to massage; providing penalties.

**HB 2747**, Relating to the administration of a retirement health care plan for firefighters and police officers in certain municipalities.

**HB 2751**, Relating to providing notice of the anticipated fiscal impact of municipal charter amendments.

**HB 2801**, Relating to audits of state agency expenditures to recover overpayments and lost discounts.

**HB 2819**, Relating to access to state electronic and information resources by individuals with disabilities.

**HB 2833**, Relating to the protection of private real property from regulatory takings.

**HB 2837**, Relating to the state's activities regarding education, vocational training, and reintegration of offenders.

**HB 2839**, Relating to the participation of state inmates in the production of certain goods and the provision of certain services.

**HB 2868**, Relating to civil liability for provision of alcohol to a minor.

**HB 2879**, Relating to requirements for certain amusement rides.

**HB 2905**, Relating to the installation of water conservation systems in Texas Department of Criminal Justice facilities.

**HB 2932**, Relating to requiring state agency purchasing personnel to disclose certain family relationships with business entities receiving certain state agency contracts.

**HB 3029**, Relating to eligibility of certain rural areas for certain state assistance.

**HB 3093**, Relating to ex parte petitions for the expunction of criminal records and files.

**HB 3125**, Relating to a retired employee's eligibility for participation in the optional retirement program and the regulation of investment advisors in that program.

**HB 3149**, Relating to inactive status for cosmetology certificate or license holders.

**HB 3181**, Relating to the creation of the Central Harris County Regional Water Authority; providing authority to issue bonds or notes; granting the power of eminent domain; providing an administrative penalty.

**HB 3297**, Relating to the inclusion of certain public school accountability information in a student's grade report card and on a school district's Internet website.

**HB 3376**, Relating to the prosecution and punishment of certain criminal offenses involving theft and fraud and to the provision of notice of the commission of those offenses to certain licensing entities.

**HB 3514**, Relating to the powers and duties of the Southwest Montgomery County Improvement District.

**HCR 150**, Designating July 1, 2005, as Leukemia and Lymphoma Awareness Day in Texas and congratulating the Leukemia and Lymphoma Society on the establishment of its Central Texas chapter.

**HJR 32**, Proposing a constitutional amendment authorizing the legislature to permit the governing body of a political subdivision to exempt from ad valorem taxation property owned by certain law enforcement officer associations.

**SB 15**, Relating to civil claims involving exposure to asbestos and silica.  
(Amended)

**SB 846**, Relating to distribution of recordings on consignment.  
(Committee Substitute)

**SB 1050**, Relating to the promotional system for municipal civil service fire fighters.  
(Amended)

**SB 1593**, Relating to uniform law on documents of title.

**SB 1621**, Relating to the tax rate for emergency services districts located in certain populous counties.

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**COMMITTEE SUBSTITUTE**  
**SENATE BILL 107 ON SECOND READING**

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 107** at this time on its second reading:

**CSSB 107**, Relating to prohibitions on engaging in conduct related to the manufacture of methamphetamine and to the regulation and wholesale distribution of certain chemical substances; providing penalties.

The bill was read second time.

Senator Estes offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 107** by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter D, Chapter 481, Health and Safety Code, is amended by adding Section 481.1245 to read as follows:

Sec. 481.1245. OFFENSE: POSSESSION OR TRANSPORT OF ANHYDROUS AMMONIA; USE OF OR TAMPERING WITH EQUIPMENT. (a) A person commits an offense if the person:

(1) possesses or transports anhydrous ammonia in a container or receptacle that is not designed or manufactured to hold or transport anhydrous ammonia;

(2) uses, transfers, or sells a container or receptacle that is designed or manufactured to hold anhydrous ammonia without the express consent of the owner of the container or receptacle; or

(3) tampers with equipment that is manufactured or used to hold, apply, or transport anhydrous ammonia without the express consent of the owner of the equipment.

(b) An offense under this section is a felony of the third degree.

SECTION 2. Subchapter C, Chapter 481, Health and Safety Code, is amended by adding Section 481.0721 to read as follows:

Sec. 481.0721. OVER-THE-COUNTER SALES OF EPHEDRINE, PSEUDOEPHEDRINE, AND NORPSEUDOEPHEDRINE. (a) In this section, "ephedrine," "pseudoephedrine," and "norpseudoephedrine" mean any compound, mixture, or preparation containing any detectable amount of that substance, including its salts, optical isomers, and salts of optical isomers. The term does not include any compound, mixture, or preparation that is in liquid, liquid capsule, or liquid gel capsule form.

(b) A business establishment may engage in over-the-counter sales of products containing ephedrine, pseudoephedrine, or norpseudoephedrine only if the establishment:

(1) operates a pharmacy licensed by the Texas State Board of Pharmacy;

(2) engages only in direct retail sales to patrons of the establishment for the patrons' personal use; and

(3) complies with the requirements of this section.

(c) A business establishment that engages in over-the-counter sales of products containing ephedrine, pseudoephedrine, or norpseudoephedrine as the only active ingredient shall maintain those products behind the pharmacy counter.

(d) A business establishment that engages in over-the-counter sales of products that contain ephedrine, pseudoephedrine, or norpseudoephedrine combined with at least one other active ingredient shall maintain those products:

(1) behind the pharmacy counter; or

(2) in a locked case within 30 feet and in a direct line of sight from a cash register or counter staffed by an employee of the establishment.

(e) Before completing an over-the-counter sale of a product containing ephedrine, pseudoephedrine, or norpseudoephedrine, a business establishment shall:

(1) require the person purchasing the product to:

(A) display a driver's license or other form of identification containing the person's photograph and date of birth; and

(B) sign for the purchase;

(2) make a record of the sale, including the name and date of birth of the person making the purchase, the date of purchase, and the item and number of grams purchased; and

(3) take actions necessary to prevent a person who makes over-the-counter purchases of one or more products containing ephedrine, pseudoephedrine, or norpseudoephedrine from obtaining from the establishment in a single transaction more than:

(A) two packages of those products; or

(B) six grams of ephedrine, pseudoephedrine, norpseudoephedrine, or a combination of those substances.

(f) The business establishment shall maintain each record made under Subsection (e)(2) for at least two years after the date the record is made and shall make each record available on request by the department or the Texas State Board of Pharmacy.

SECTION 3. Section 481.077(l), Health and Safety Code, is amended to read as follows:

(l) This section does not apply to the sale or transfer of any compound, mixture, or preparation containing ~~a nonnarcotic product that:~~

~~(1) includes:~~

~~[(A)] ephedrine;~~

~~[(B)] pseudoephedrine, or;~~

~~[(C)] norpseudoephedrine that is in liquid, liquid capsule, or liquid gel capsule form;~~ ~~or~~

~~[(D)] phenylpropanolamine; and~~

~~[(2) is sold with a prescription or over the counter in accordance with a federal statute or rule].~~

SECTION 4. Chapter 504, Health and Safety Code, is repealed.

SECTION 5. The changes in law made by this Act in adding Section 481.1245, Health and Safety Code, and repealing Chapter 504 of that code apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense

was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 6. This Act takes effect on June 1, 2005, if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary to take effect on that date, this Act takes effect September 1, 2005.

The amendment was read.

Senator Estes offered the following amendment to Floor Amendment No. 1:

### **Floor Amendment No. 2**

Amend Floor Amendment No. 1 to **CSSB 107**, in SECTION 2 of the amendment, proposed Subsection (d)(2), Section 481.0721, Health and Safety Code (on page 2, line 20), by striking "a cash register or" and substituting "the pharmacy".

The amendment to Floor Amendment No. 1 to **CSSB 107** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Question recurring on the adoption of Floor Amendment No. 1 to **CSSB 107**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 as amended.

On motion of Senator Estes and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 107** as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

### **COMMITTEE SUBSTITUTE SENATE BILL 107 ON THIRD READING**

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 107** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

### **Reason for Vote**

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 107**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying



the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 107** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth  
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

### **HOUSE BILL 1239 ON THIRD READING**

Senator Hinojosa moved to suspend the regular order of business to take up for consideration **HB 1239** at this time on its third reading and final passage:

**HB 1239**, Relating to the implementation of unified drug enforcement strategies.  
The motion prevailed.

Senators Deuell, Fraser, and Harris asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 3.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Duncan, Ellis, Eltife, Estes, Gallegos, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Deuell, Fraser, Harris.

### **SENATE BILL 220 WITH HOUSE AMENDMENT**

Senator Carona called **SB 220** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Armbrister in Chair, laid the bill and the House amendment before the Senate.

#### **Amendment**

Amend **SB 220** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED AN ACT**

relating to the maintenance of records by a notary public.

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

SECTION 1. Section 406.014, Government Code, is amended by adding Subsection (e) to read as follows:

(e) A notary public may maintain the records required by Subsection (a) electronically in a computer or other storage device.

SECTION 2. This Act takes effect September 1, 2005.

The amendment was read.

Senator Carona moved to concur in the House amendment to **SB 220**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

### **GUEST PRESENTED**

Senator Fraser was recognized and introduced to the Senate Lieutenant General Thomas F. Metz, Commanding General, III Corps and Fort Hood.

The Senate welcomed its guest.

### **COMMITTEE SUBSTITUTE SENATE BILL 112 ON SECOND READING**

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 112** at this time on its second reading:

**CSSB 112**, Relating to the civil and criminal consequences of engaging in certain conduct related to the manufacture of methamphetamine and to the distribution and retail sales of pseudoephedrine; providing penalties.

The bill was read second time.

Senator Van de Putte offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **CSSB 112** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 99.003, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 99.003. STRICT LIABILITY AND MINIMUM DAMAGES FOR EXPOSURE. A person who manufactures methamphetamine is strictly liable for any exposure by an individual to the manufacturing process, including exposure to the methamphetamine itself or any of the byproducts or waste products incident to the manufacture, for the greater of:

(1) actual damages for personal injury, death, or property damage as a result of the exposure; or

(2) \$20,000 [~~\$10,000~~] for each incident of exposure.

SECTION 2. Section 262.104, Family Code, is amended to read as follows:

Sec. 262.104. TAKING POSSESSION OF A CHILD IN EMERGENCY WITHOUT A COURT ORDER. (a) If there is no time to obtain a temporary restraining order or attachment before taking possession of a child consistent with the health and safety of that child, an authorized representative of the Department of Family and Protective [~~and Regulatory~~] Services, a law enforcement officer, or a juvenile probation officer may take possession of a child without a court order under the following conditions, only:

(1) on personal knowledge of facts that would lead a person of ordinary prudence and caution to believe that there is an immediate danger to the physical health or safety of the child;

(2) on information furnished by another that has been corroborated by personal knowledge of facts and all of which taken together would lead a person of ordinary prudence and caution to believe that there is an immediate danger to the physical health or safety of the child;

(3) on personal knowledge of facts that would lead a person of ordinary prudence and caution to believe that the child has been the victim of sexual abuse;

(4) on information furnished by another that has been corroborated by personal knowledge of facts and all of which taken together would lead a person of ordinary prudence and caution to believe that the child has been the victim of sexual abuse; or

(5) on information furnished by another that has been corroborated by personal knowledge of facts and all of which taken together would lead a person of ordinary prudence and caution to believe that the parent or person who has possession of the child is currently using a controlled substance as defined by Chapter 481, Health and Safety Code, and the use constitutes an immediate danger to the physical health or safety of the child.

(b) An authorized representative of the Department of Family and Protective Services, a law enforcement officer, or a juvenile probation officer may take possession of a child under Subsection (a) on personal knowledge or information furnished by another, that has been corroborated by personal knowledge, that would lead a person of ordinary prudence and caution to believe that the parent or person who has possession of the child has permitted the child to remain on premises used for the manufacture of methamphetamine.

SECTION 3. Section 481.124(b), Health and Safety Code, is amended to read as follows:

(b) For purposes of this section, an intent to unlawfully manufacture the controlled substance methamphetamine is presumed if the actor possesses or transports:

(1) anhydrous ammonia in a container or receptacle that is not designed and manufactured to lawfully hold or transport anhydrous ammonia;

(2) lithium metal removed from a battery and immersed in kerosene, mineral spirits, or similar liquid that prevents or retards hydration; or

(3) in one container, vehicle, or building, phenylacetic acid, or more than nine grams, three containers packaged for retail sale, or 300 tablets or capsules of a product containing ephedrine or pseudoephedrine, and:

(A) anhydrous ammonia;

(B) at least three of the following categories of substances commonly used in the manufacture of methamphetamine:

(i) lithium or sodium metal or red phosphorus, iodine, or iodine crystals;

(ii) lye, sulfuric acid, hydrochloric acid, or muriatic acid;

(iii) an organic solvent, including ethyl ether, alcohol, or acetone;

(iv) a petroleum distillate, including naphtha, paint thinner, or charcoal lighter fluid; or

(v) aquarium, rock, or table salt; or

(C) at least three of the following items:

(i) an item of equipment subject to regulation under Section 481.080, if the person is not registered under Section 481.063; or

(ii) glassware, a plastic or metal container, tubing, a hose, or other item specially designed, assembled, or adapted for use in the manufacture, processing, analyzing, storing, or concealing of methamphetamine.

SECTION 4. Subchapter C, Chapter 481, Health and Safety Code, is amended by adding Section 481.0771 to read as follows:

Sec. 481.0771. RECORDS AND REPORTS ON PSEUDOEPHEDRINE. (a) A wholesaler who sells, transfers, or otherwise furnishes pseudoephedrine to a retailer shall:

(1) before delivering the pseudoephedrine, obtain from the retailer the retailer's address, area code, and telephone number; and

(2) make an accurate and legible record of the transaction and maintain the record for at least two years after the date of the transaction.

(b) The wholesaler shall make all records available to the director in accordance with department rule, including:

(1) the information required by Subsection (a)(1);

(2) the amount of pseudoephedrine delivered; and

(3) any other information required by the director.

(c) Not later than five business days after receipt of an order for pseudoephedrine that requests delivery of a suspicious quantity of pseudoephedrine as determined by department rule, a wholesaler shall submit to the director a report of the order in accordance with department rule.

(d) A wholesaler who, with reckless disregard for the duty to report, fails to report as required by Subsection (c) may be subject to disciplinary action in accordance with department rule.

SECTION 5. (a) Section 99.003, Civil Practice and Remedies Code, as amended by this Act, applies only to a cause of action that accrues on or after September 1, 2005. An action that accrued before September 1, 2005, is governed by the law applicable to the action immediately before September 1, 2005, and that law is continued in effect for that purpose.

(b) Section 481.124(b), Health and Safety Code, as amended by this Act, applies only to an offense committed on or after September 1, 2005. An offense committed before September 1, 2005, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before September 1, 2005, if any element of the offense was committed before that date.

(c) The director of the Department of Public Safety of the State of Texas shall adopt any rules necessary to administer and enforce Section 481.0771, Health and Safety Code, as added by this Act, not later than September 1, 2005.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

The amendment was read.

Senator Van de Putte offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 2**

Amend Floor Amendment No. 1 to **CSSB 112** as follows:

(1) Add a new SECTION to the bill, appropriately numbered, to read as follows: SECTION \_\_\_\_\_. Section 22.041, Penal Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) For purposes of Subsection (c), it is presumed that a person engaged in conduct that places a child in imminent danger of death, bodily injury, or physical or mental impairment if the person manufactured the controlled substance methamphetamine in the presence of the child.

(2) In Subsection (b) of SECTION 5 of the bill, on page 4, line 30, strike "applies" and substitute "and Section 22.041(c-1), Penal Code, as added by this Act, apply".

(3) Renumber existing SECTIONS of the bill as appropriate.

The amendment to Floor Amendment No. 1 to **CSSB 112** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Question recurring on the adoption of Floor Amendment No. 1 to **CSSB 112**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 as amended.

On motion of Senator Van de Putte and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 112** as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 112 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 112** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

### Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 112**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 112** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth  
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

### GUEST PRESENTED

Senator Lindsay was recognized and introduced to the Senate his son, Larry.

The Senate welcomed its guest.

### COMMITTEE SUBSTITUTE SENATE BILL 724 ON SECOND READING

Senator Lucio moved to suspend the regular order of business to take up for consideration **CSSB 724** at this time on its second reading:

**CSSB 724**, Relating to the appraisal for ad valorem tax purposes of certain property used to provide low-income or moderate-income housing.

The motion prevailed.

Senators Brimer, Nelson, and Staples asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **CSSB 724** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 23.215, Tax Code, is amended to read as follows:

Sec. 23.215. APPRAISAL OF CERTAIN NONEXEMPT PROPERTY USED FOR LOW-INCOME OR MODERATE-INCOME HOUSING. (a) This section applies only to real property ~~[owned by an organization]~~:

(1) that on the effective date of the appraisal ~~[this section]~~ was rented to a low-income or moderate-income individual or family satisfying the organization's income eligibility requirements and that continues to be used for that purpose;

(2) that was financed under the low income housing tax credit program under Subchapter DD, Chapter 2306, Government Code;

(3) that does not receive an exemption under Section 11.182 or 11.1825; and

(4) the owner of which has not entered into an agreement with any taxing unit to make payments to the taxing unit instead of taxes on the property.

(b) The chief appraiser shall use the income method of appraisal as provided by Section 23.012 and shall apply a capitalization rate as set forth in Subsection (c).

(c) The capitalization rate to be used in determining the appraised value under this section is at least 13.5 percent unless the appraisal district where the property is appraised performs a study of capitalization rates based on the sales of comparable properties that meet the requirements of Subsection (a) within the boundaries of the appraisal district. If the study determines a capitalization rate other than 13.5 percent, such capitalization rate shall be used. The net operating income capitalized shall be inclusive of all property taxes [appraise the property in the manner provided by Section 11.1825(e)].

(d) Not later than January 31 of each year, the appraisal district shall give public notice in a manner determined by the district, including posting on the district's website if applicable, of the capitalization rate to be used in that year to appraise property that meets the requirements of Subsection (a) if the rate is other than 13.5 percent.

(e) In a study required by Section 403.302, Government Code, a property selected for appraisal and meeting the requirements of Subsection (a) must be appraised as required under Subsection (c).

SECTION 2. This Act applies only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act.

SECTION 3. This Act takes effect January 1, 2006.

The amendment to **CSSB 724** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 724** as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Brimer, Nelson, Staples.

**COMMITTEE SUBSTITUTE  
SENATE BILL 724 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 724** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Armbrister, Averitt, Barrientos, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Ogden, Seliger, Shapiro, Shapleigh, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Brimer, Nelson, Staples, Wentworth.

**Reason for Vote**

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 724**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 724** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth  
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 28, Nays 3.

Yeas: Armbrister, Averitt, Barrientos, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Ogden, Seliger, Shapiro, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Brimer, Nelson, Staples.

**SENATE BILL 1458 ON THIRD READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration **SB 1458** at this time on its third reading and final passage:

**SB 1458**, Relating to the adoption of a uniform commercial building code for use in the state.

The motion prevailed.

Senators Williams and Zaffirini asked to be recorded as voting "Nay" on suspension of the regular order of business.



The bill was read third time and was passed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire.

Nays: Williams, Zaffirini.

### **GUESTS PRESENTED**

Senator Wentworth was recognized and introduced to the Senate a group of students from Harmony Hills Elementary School in San Antonio.

The Senate welcomed its guests.

### **SESSION TO CONSIDER EXECUTIVE APPOINTMENTS**

The Presiding Officer, Senator Armbrister in Chair, announced the time had arrived to consider executive appointments to agencies, boards, and commissions. Notice of submission of these names for consideration was given yesterday by Senator Lindsay.

Senator Lindsay moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The Presiding Officer asked if there were requests to sever nominees.

There were no requests offered.

### **(President in Chair)**

### **NOMINEES CONFIRMED**

The following nominees, as reported by the Committee on Nominations, were confirmed by the following vote: Yeas 31, Nays 0.

Members, The Texas A&M University System Board of Regents: Lupe Fraga, Fort Bend County; Bill Jones, Travis County; Gene Stallings, Lamar County.

Members, Texas Board of Criminal Justice: Oliver John Bell, Travis County; Gregory Scott Coleman, Williamson County.

Member, Texas Workforce Commission: Ronald Gene Congleton, Travis County.

Members, Brazos River Authority Board of Directors: Christopher Steve Adams, Jr., Hood County; Truman Otis Blum, Bosque County; Robert Manning Christian, Leon County; Christopher D. DeCluitt, McLennan County; Carolyn H. Johnson, Brazoria County; Roberta Jean Killgore, Burtleson County.

Chief Justice, Court of Appeals, Seventh Court of Appeals District: Brian Patrick Quinn, Lubbock County.

Member, Texas Structural Pest Control Board: Richard M. Rogers, Tarrant County.

Directors, Rio Grande Regional Water Authority Board of Directors: Joe A. Barrera III, Cameron County; Wayne Halbert, Cameron County; Sonia Kaniger, Cameron County; Kathleen "Kathy" Reavis, Hidalgo County; Jimmie E. Steidinger, Hidalgo County.

Members, Texas School Safety Center Board of Directors: Charles Arthur Brawner, Waller County; Gigi Edwards Bryant, Travis County; Eric J. Cederstrom, Lubbock County; Garry Edward Eoff, Brown County; Marilea Whatley Lewis, Dallas County; Carl A. Montoya, Ed.D., San Patricio County; James Richard Pendell, El Paso County; Lucy Rubio, Nueces County; Jane A. Wetzel, Dallas County.

Members, Council on Sex Offender Treatment: Frederick Liles Arnold, Collin County; Monica Hernandez, Willacy County; Glen Allen Kercher, Walker County; Maria T. Molett, Dallas County; Aaron Paul Pierce, Bell County.

Chair, Texas Small Business Industrial Development Corporation Board of Directors: Nathaniel Willis Parker IV, Denton County.

Members, Texas Small Business Industrial Development Corporation Board of Directors: A. Mario Castillo, Tom Green County; Nancy R. Kudla, Bexar County.

### **COMMITTEE SUBSTITUTE HOUSE BILL 2 ON SECOND READING**

Senator Shapiro moved to suspend the regular order of business to take up for consideration **CSHB 2** at this time on its second reading:

**CSHB 2**, Relating to public education, public school finance matters, and the imposition of a state ad valorem tax; imposing criminal penalties.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Barrientos, Ellis, Gallegos, Shapleigh.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **CSHB 2** as follows:

(1) In Section 1A.08 of the bill, strike proposed Subsection (b)(1), Section 42.2541, Education Code (committee printing, page 2, lines 49-54), and substitute the following:

(1) the amount of state and local revenue per student in weighted average daily attendance for maintenance and operation of the district that would have been available to the district if the funding elements under Chapters 41 and 42, including any amounts the district would have received under Rider 82, page III-23, Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act), in effect during the 2004-2005 school year, were in effect for the current school year; and

(2) In Section 1B.05 of the bill, in proposed Subsection (b-1), Section 42.102, Education Code (committee printing, page 6, line 13), strike "2008" and substitute "2007".

(3) In Section 1B.05 of the bill, in proposed Subsection (b-1), Section 42.102, Education Code (committee printing, page 6, line 16), strike "2010" and substitute "2009".

(4) In Section 1B.24 of the bill, in the recital (committee printing, page 16, lines 6-7) strike "Section 45.003(d), Education Code, is amended" and substitute "Section 45.003, Education Code, is amended by amending Subsection (d) and adding Subsection (f)".

(5) In Section 1B.24 of the bill, in amended Section 45.003, Education Code (committee printing, page 16, between lines 14 and 15), insert the following:

(f) Notwithstanding any other provision of this section, a school district may not levy a maintenance and operations tax at a rate greater than the maximum rate authorized by Subsection (d) plus the rate of an enrichment tax authorized by Sections 42.303 and 42.306.

(6) In Section 2C.10 of the bill, in amended Subsection (e), Section 39.023, Education Code (committee printing, page 36, lines 24-25), strike "not later than" and substitute "on or after August 1 after"

(7) In Section 2D.17 of the bill, strike proposed Subsection (c), Section 31.0221, Education Code (committee printing, page 55, lines 20-25), and substitute the following:

(c) If the State Board of Education determines that an instructional material proposed for adoption may contain a factual error, the State Board of Education may appoint a panel of experts and scholars to evaluate the material for any factual error.

(8) In Section 2D.34 of the bill, strike Subsection (a) (page 63, lines 14-19) and substitute the following:

(a) This section applies to an instructional material, as that term is defined by Section 31.002, Education Code, as amended by this part, including an electronic instructional material, adopted by the State Board of Education before January 1, 2005.

(9) In Section 2D.34(b) of the bill (committee printing, page 63, line 20), between "contract" and "described", insert "for the purchase or licensing of an instructional material".

(10) In Section 2D.34(b) of the bill (committee printing, page 63, line 21), strike "the remainder of".

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Shapiro offered the following amendment to the bill:

### **Floor Amendment No. 2**

Amend **CSHB 2** as follows:

(1) In Section 1A.07 of the bill, strike proposed Subsection (e-2), Section 42.253, Education Code (committee printing, page 2, lines 38-40), and substitute the following:

(e-2) For the 2005-2006 school year, the limit authorized by Subsection (e) is reduced by \$0.35. This subsection expires September 1, 2006.

(2) In Section 1A.11 of the bill, in proposed Subsection (a), Section 42.303, Education Code (committee printing, page 3, line 63), strike "(a)".

(3) In Section 1A.11 of the bill, in proposed Subsection (a), Section 42.303, Education Code (committee printing, page 3, line 65), strike "\$0.69" and substitute "\$0.39".

(4) In Section 1A.11 of the bill, strike proposed Subsection (b), Section 42.303, Education Code (committee printing, page 3, line 67, through page 4, line 1).

(5) In the introductory language of Section 1A.12 of the bill (committee printing, page 4, line 3), strike "Subsections (e) and (f)" and substitute "Subsection (e)".

(6) In Section 1A.12 of the bill, in amended Subsection (d), Section 45.003 (committee printing, page 4, line 10), strike "\$1.45" and substitute "\$1.15".

(7) In Section 1A.12 of the bill, strike proposed Subsections (e) and (f), Section 45.003, Education Code (committee printing, page 4, lines 12-21), and substitute the following:

(e) An election held before January 1, 2005, authorizing a maintenance tax at a rate of at least \$1.15 on the \$100 valuation of taxable property in the district is sufficient to authorize a rate of \$1.15 or less for the 2005 tax year or a subsequent tax year.

(8) In the heading to Part B, Article 1 (committee printing, page 4, line 50), strike "AND STATE PROPERTY TAX" and substitute "AND EQUALIZATION".

(9) In Section 1B.14 of the bill, strike amended Subsection (b), Section 42.251, Education Code (committee printing, page 10, lines 48-62), and substitute the following:

(b) The program shall be financed by:

(1) ad valorem tax revenue generated by an equalized uniform school district effort;

(2) ad valorem tax revenue generated by local school district effort for an enrichment program in accordance with Subchapter F in excess of the equalized uniform school district effort;

(3) state available school funds distributed in accordance with law; and

(4) state funds appropriated for the purposes of public school education and allocated to each district in an amount sufficient to finance the cost of each district's Foundation School Program not covered by other funds specified in this subsection.

(10) Strike the introductory language of Section 1B.18 of the bill (committee printing, page 11, lines 32-34), and substitute the following:

SECTION 1B.18. Section 42.252(a), Education Code, is amended to read as follows:

(11) In Section 1B.18 of the bill, in amended Subsection (a), Section 42.252, Education Code (committee printing, page 11, line 42), strike "except as provided by Subsection (a-1),".

(12) In Section 1B.18 of the bill, in amended Subsection (a), Section 42.252, Education Code (committee printing, page 11, line 42), strike "\$0.25" and substitute "\$1.15".

(13) In Section 1B.18 of the bill, strike proposed Subsection (a-1) and amended Subsection (d), Section 42.252, Education Code (committee printing, page 11, line 47, through page 12, line 1).

(14) Strike Section 1B.24 of the bill (committee printing, page 16, lines 6-14), substitute the following appropriately numbered section, and renumber the subsequent sections of Part B, Article 1 accordingly:

SECTION 1B.\_\_\_\_. Chapter 42, Education Code, is amended by adding Subchapter I to read as follows:

#### SUBCHAPTER I. ADDITIONAL EQUALIZATION

Sec. 42.401. DISTRICTS SUBJECT TO ADDITIONAL EQUALIZATION. (a) Except as provided by Subsection (b), a school district in which the district's local share under Section 42.252 exceeds the district's basic program allotments under Section 42.251 shall be consolidated by the commissioner under Subchapter H, Chapter 41.

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

(15) Between Section 1B.24 and 1B.25 (committee printing, page 16, between lines 14 and 15), insert the following appropriately numbered sections and renumber the subsequent sections of Part B, Article 1 accordingly:

SECTION 1B.\_\_\_\_. The heading to Chapter 41, Education Code, is amended to read as follows:

#### CHAPTER 41. EQUALIZATION ACTIONS

##### [EQUALIZED WEALTH LEVEL]

SECTION 1B.\_\_\_\_. Section 41.004, Education Code, is amended to read as follows:

Sec. 41.004. ANNUAL REVIEW OF EQUALIZATION [PROPERTY WEALTH]. (a) Not later than July 15 of each year, using the estimate of enrollment under Section 42.254, the commissioner shall review the local share and basic program allotments [wealth per student] of each school district [~~districts~~] in the state and shall notify:

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

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

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

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

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

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

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

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

SECTION 1B. \_\_\_. Section 41.006(a), Education Code, is amended to read as follows:

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

SECTION 1B. \_\_\_. Section 41.008(a), Education Code, is amended to read as follows:

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

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

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

SECTION 1B. \_\_\_\_. Section 41.010, Education Code, is amended to read as follows:

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

SECTION 1B. \_\_\_\_. Section 41.013(a), Education Code, is amended to read as follows:

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

SECTION 1B. \_\_\_\_. Section 41.091, Education Code, is amended to read as follows:

Sec. 41.091. AGREEMENT. (a) A school district subject to Section 42.401 [~~with a wealth per student that exceeds the equalized wealth level~~] may 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 42.252 and the district's basic program allotments under Section 42.251 or the amount equal to 35 percent of the district's total maintenance and operations tax revenue [~~sufficient, in combination with any other actions taken under this chapter, to reduce the district's wealth per student to a level that is equal to or less than the equalized wealth level~~].

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

(1) the amount required under Subsection (a); or

(2) the amount equal to the percentage of the district's total maintenance and operations tax revenue that permits the district to retain the maximum revenue allowed under Section 42.2542 for the applicable school year.

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

SECTION 1B. \_\_\_\_. Section 41.093(a), Education Code, is amended to read as follows:

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

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

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

SECTION 1B. \_\_\_\_. Section 41.251, Education Code, is amended to read as follows:

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

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

(a) In selecting the districts to be consolidated with a district subject to Section 42.401 [~~that has a property wealth greater than the equalized wealth level~~], the commissioner shall select one or more districts with a local share under Section 42.252 [~~wealth per student~~] that, when consolidated, will result in a consolidated district that is not subject to Section 42.401 [~~with a wealth per student equal to or less than the equalized wealth level~~]. In achieving that result, the commissioner shall give priority to school districts in the following order:

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

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

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

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

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

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

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

(d) In this section, "local share percentage" means a percentage determined by dividing a school district's local share under Section 42.252 by the district's tier one allotment under Section 42.251.

(16) In Section 2A.10 of the bill, in proposed Subsection (c-2), Section 21.402, Education Code (committee printing, page 20, lines 25-27), strike "the constitutional amendment proposed by .J.R. No. , 79th Legislature, Regular Session, 2005, is approved by the voters and".

(17) In Section 2A.10 of the bill, strike proposed Subdivision (2), Subsection (c-2), Section 21.402, Education Code (committee printing, page 20, lines 39-46), and substitute the following:

(2) for the 2006-2007 school year, \$150.



(18) Strike Article 3 of the bill (committee printing, page 71, line 32, through page 85, line 42).

(19) In the heading to Part B, Article 5 (committee printing, page 129, line 33), strike "AND STATE PROPERTY TAX" and substitute "AND EQUALIZATION".

(20) Before Section 5B.01 of the bill (committee printing, page 129, between lines 33 and 34), insert the following appropriately numbered section and renumber the subsequent sections of Part B, Article 5 accordingly:

SECTION 5B.\_\_\_\_. Section 7.055(b)(34), Education Code, is amended to read as follows:

(34) The commissioner shall perform duties in connection with equalization actions [~~the equalized wealth level~~] under Chapter 41.

(21) In Section 5B.01 of the bill, strike amended Subsection (b), Section 12.013, Education Code (committee printing, page 129, line 36, through page 130, line 10), and substitute the following:

SECTION 3.05. Section 12.013(b), Education Code, is amended to read as follows:

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

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

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

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

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

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

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

(D) student admissions under Section 25.001;

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

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

(G) elementary class size limits under Section 25.112, in the case of any campus in the district that is considered academically unacceptable [~~low performing~~] under Section 39.132;

(H) high school graduation under Section 28.025;

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

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

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

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

(M) computation and distribution of state aid under Chapters 31, 42, and 43;

(N) extracurricular activities under Section 33.081;

(O) health and safety under Chapter 38;

(P) public school accountability under Subchapters B, C, D, and G, Chapter 39;

- (Q) equalization [~~equalized wealth~~] under Section 42.401 [~~Chapter 41~~];  
 (R) a bond or other obligation or tax rate under Chapters 42, 43, and 45;

and

- (S) purchasing under Chapter 44.

(22) Strike Section 5B.02 of the bill (committee printing, page 130, lines 11-21).

(23) In Section 5B.03 of the bill (committee printing, page 130, lines 29 and 30), strike "[~~A district to which Chapter 41 applies is entitled to the grants paid under this section.~~]" and substitute "A district to which Section 42.401 [~~Chapter 41~~] applies is entitled to the grants paid under this section."

(24) In Section 5B.04 of the bill (committee printing, page 130, lines 41 and 42), strike "[~~A district to which Chapter 41 applies is entitled to the grants paid under this section.~~]" and substitute "A district to which Section 42.401 [~~Chapter 41~~] applies is entitled to the grants paid under this section."

(25) In Section 5B.05 of the bill (committee printing, page 130, lines 53 and 54), strike "[~~A district to which Chapter 41 applies is entitled to the grants paid under this section.~~]" and substitute "A district to which Section 42.401 [~~Chapter 41~~] applies is entitled to the grants paid under this section."

(26) In Section 5B.06 of the bill (committee printing, page 130, lines 66 and 67), strike "[~~A district to which Chapter 41 applies is entitled to the grants paid under this section.~~]" and substitute "A district to which Section 42.401 [~~Chapter 41~~] applies is entitled to the grants paid under this section."

(27) Strike Section 5B.16 of the bill (committee printing, page 132, lines 53-64).

(28) Strike Section 5B.20 of the bill (committee printing, page 133, lines 41-45).

(29) Strike Subdivision (1), Section 6.02 of the bill (committee printing, page 134, lines 24-32), and substitute the following:

- (1) the following provisions of the Education Code:

(A) Subchapters B, C, E, F, and G, Chapter 41;

(B) Subchapter F, Chapter 42, as it existed on November 1, 2005;

(C) Sections 21.402(b), 29.203(c) and (g), 31.025, 31.1031, 41.001, 41.002, 41.003, 41.0031, 41.007, 41.009(b), 41.011, 41.092, 41.099, 41.252(b), 42.103(b) and (e), 42.2514, 42.2517, 42.259, 42.260, 42.4101; and

(D) Sections 42.2512(a-1) and 42.2541, as added by Part A, Article 1, of this Act;

(30) In Subdivision (3), Section 6.02 of the bill (committee printing, page 134, line 36), strike "and (c)".

(31) Strike Section 6.03 of the bill (committee printing, page 134, lines 38-45), and substitute the following:

SECTION 6.03. A school district maintenance tax rate imposed under Sections 45.002 and 45.003, Education Code, before September 1, 2005, is void.

(32) Between Sections 6.04 and 6.05 of the bill (committee printing, page 134, between lines 52 and 53), insert the following appropriately numbered section and renumber the subsequent sections of Article 6 accordingly:

SECTION 1C. \_\_\_\_. A change in law made by this Act relating to a school district maintenance tax or enrichment tax under Chapter 41 or Chapter 42, Education Code, prevails over any similar provision of H.B. No. 3, Acts of the 79th Legislature, Regular Session, 2005.

(33) Strike Subsections (a) and (b), Section 6.06 of the bill (committee printing, page 134, lines 56-68).

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Nays: Ellis.

Senator Lucio offered the following amendment to the bill:

### **Floor Amendment No. 3**

Amend **CSHB 2** in Article 3 of the bill by inserting the following new sections, appropriately numbered, and renumbering the subsequent sections of Article 3 accordingly:

SECTION 3. \_\_. Section 31.05(a), Tax Code, is amended to read as follows:

(a) The governing body of a taxing unit ~~[that collects its own taxes]~~ may adopt the discounts provided by Subsection (b) or Subsection (c) ~~[of this section]~~, or both, in the manner required by law for official action by the body. The discounts, if adopted, apply only to that taxing unit's taxes ~~[for a taxing unit for which the adopting taxing unit collects taxes if the governing body of the other unit, in the manner required by law for official action by the body, adopts the discounts or approves of their application to its taxes by the collecting unit]~~. If a taxing unit adopts both discounts under Subsections (b) and (c) ~~[of this section]~~, the discounts adopted under Subsection (b) apply unless the ~~[unit mails its]~~ tax bills for the unit are mailed after September 30, in which case only the discounts under Subsection (c) apply. A taxing unit that collects taxes for another taxing unit that adopts the discounts may prepare and mail separate tax bills on behalf of the adopting taxing unit and may charge an additional fee for preparing and mailing the separate tax bills and for collecting the taxes imposed by the adopting taxing unit. If under an intergovernmental contract a county assessor-collector collects taxes for a taxing unit that adopts the discounts, the county assessor-collector may terminate the contract if the county has adopted a discount policy that is different from the discount policy adopted by the adopting taxing unit.

SECTION 3. \_\_. (a) Section 31.05, Tax Code, as amended by this article, applies to the adoption of a discount by a taxing unit beginning with the 2005 tax year, except as provided by Subsection (b) of this section.

(b) If a taxing unit's tax bills for the 2005 tax year are mailed before the effective date of this article, Section 31.05, Tax Code, as amended by this article, applies to the adoption of a discount by the taxing unit beginning with the 2006 tax year, and the law in effect when the tax bills were mailed applies to the 2005 tax year with respect to that taxing unit.

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3.

Senator Shapiro offered the following amendment to the bill:

**Floor Amendment No. 4**

Amend **CSHB 2** as follows:

(1) In ARTICLE 2 of the bill, in PART A (committee printing, page 22, between lines 55 and 56), insert the following appropriately numbered SECTION and renumber subsequent SECTIONS appropriately:

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

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

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

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

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

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

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

(2) if the purpose of the committee meeting is to consider the student's dismissal, unless the supervising speech-language pathologist has submitted the pathologist's recommendation in writing on or before the date of the meeting.

(d) This section:

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

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

(2) In ARTICLE 2 of the bill, strike SECTION 2A.15 (committee printing, page 24, line 47, through page 25, line 32) and renumber subsequent SECTIONS appropriately.

(3) In SECTION 6.01(3) of the bill (committee printing, page 134, line 17), after the semicolon, insert "and".

(4) In SECTION 6.01(4) of the bill (committee printing, page 134, line 19), strike "; and" and substitute ".".

(5) In SECTION 6.01 of the bill, strike Subdivision (5) (committee printing, page 134, lines 20-21).

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4.

Senator Shapiro offered the following amendment to the bill:

### **Floor Amendment No. 5**

Amend **CSHB 2** in ARTICLE 2 of the bill, in PART C (committee printing, page 31, between lines 1 and 2), by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS appropriately:

SECTION 2C. \_\_\_. Subchapter A, Chapter 7, Education Code, is amended by adding Section 7.007 to read as follows:

Sec. 7.007. PUBLIC ACCESS TO PEIMS DATA. (a) The commissioner by rule shall adopt procedures to make available, through the agency Internet website, all financial information provided by school districts and campuses through the Public Education Information Management System (PEIMS), including campus-level expenditure information.

(b) In adopting rules under this section, the commissioner shall provide a summarized format for reporting financial information on the agency Internet website.

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5.

Senator Jackson offered the following amendment to the bill:

### **Floor Amendment No. 6**

Amend **CSHB 2** as follows:

(1) In Part C, Article 1 of the bill, before Section 1C.01 (committee printing, page 16, between lines 19 and 20), insert the following appropriately numbered section:

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

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

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

(2) In Part C, Article 1 of the bill, after Section 1C.02 (committee printing, page 16, between lines 42 and 43), insert the following appropriately numbered section:

SECTION 1C. \_\_\_. Chapter 46, Education Code, is amended by adding Subchapter D to read as follows:

#### SUBCHAPTER D. REFUNDING TO INCREASE PERMANENT SCHOOL FUND CAPACITY

Sec. 46.091. DEFINITIONS. In this subchapter:

(1) "Allocated revenue" means that portion of state assistance under Subchapter A or B equal to the scheduled debt service payments in effect immediately before the refunding of eligible bonds being refunded under this subchapter.

(2) "Authority" means the Texas Public Finance Authority.

(3) "Authority obligation" means any type of revenue obligation, including a bond, note, certificate, or other instrument issued under this subchapter. The term includes an obligation issued to refund an obligation issued under this subchapter.

(4) "Credit agreement" has the meaning assigned by Section 1371.001, Government Code.

(5) "Obligation administrative expenses" means expenses incurred in administering authority obligations, including:

(A) administrative expenses incurred by the commissioner or the authority relating to the administration of this subchapter; and

(B) fees for:

(i) paying agents, trustees, and attorneys;

(ii) other professional services necessary to ensure compliance with applicable state or federal law; and

(iii) a school district with eligible bonds refunded under this subchapter, professional service expenses in an amount approved by the commissioner.

Sec. 46.092. ISSUANCE OF AUTHORITY OBLIGATIONS. (a) If the commissioner determines that it is feasible to refund eligible school district bonds as provided by this subchapter, the commissioner may request that the authority issue authority obligations necessary to accomplish the refunding. On request of the commissioner, the authority shall issue authority obligations, in accordance with Title 9, Government Code, in an amount sufficient to:

(1) refund eligible bonds;

(2) pay all obligation administrative expenses;

(3) pay the costs of issuing the authority obligations;

(4) pay the costs of any credit agreement; and

(5) provide any reserve funds.

(b) Authority obligations and any related credit agreements must be secured by allocated revenue.

(c) The commissioner's request for the issuance of authority obligations must state:

(1) the maximum principal amount of bonds to be refunded under this subchapter;

(2) the maximum term of bonds to be refunded; and

(3) the amount of state assistance under Subchapter A or B to support the payment of the bonds to be refunded.

(d) To best achieve the economic goals of this subchapter and accomplish the borrowing at the lowest practicable cost, the authority may determine:

(1) the method of sale of authority obligations;

(2) the type and form of obligation;

(3) the maximum interest rates and other terms of authority obligations; and

(4) the need for related credit agreements.

(e) The authority shall certify to the commissioner that each series of authority obligations issued under this subchapter will result in an aggregate present value savings.

(f) Section 46.007 does not apply to the issuance of authority obligations under this subchapter.

Sec. 46.093. ELIGIBILITY OF BONDS FOR REFUNDING. School district bonds are eligible for refunding under this subchapter if:

(1) the district receives state assistance for payment of the bonds under Subchapter A or B; and

(2) the principal and interest of the bonds are guaranteed by the permanent school fund under Subchapter C, Chapter 45.

Sec. 46.094. IDENTIFICATION OF ELIGIBLE BONDS; NOTICE TO SCHOOL DISTRICTS. (a) If the commissioner determines that it is feasible to refund eligible school district bonds as provided by this subchapter, the commissioner shall periodically identify which outstanding school bonds are eligible for refunding under this subchapter. The commissioner shall notify the school districts issuing the bonds that:

(1) the bonds are subject to being refunded and defeased through the issuance of authority obligations; and

(2) a school district whose bonds are refunded under this subchapter is entitled to priority in the allocation of resulting increases in the capacity of the permanent school fund to guarantee school district bonds under Subchapter C, Chapter 45, as provided by Section 45.0561.

(b) The district may elect to direct the commissioner to include any of the district's eligible bonds for consideration for refunding under this subchapter. If the district does not elect to direct the commissioner to include the district's bonds for consideration for refunding within the time prescribed by this subsection, the bonds may not be refunded under this subchapter.

(c) Notice under Subsection (a) must:

(1) identify the bonds the commissioner proposes to refund under this subchapter;

(2) state that the school district may elect to direct the commissioner to include any of the district's bonds for consideration for refunding; and

(3) advise the district of:

(A) the effect of electing to have the bonds considered for refunding;

and

(B) the effect of not electing to have the bonds considered for refunding.

Sec. 46.095. AGREEMENT BETWEEN COMMISSIONER AND AUTHORITY. (a) To permit the authority to pledge allocated revenue to the payment of authority obligations, the commissioner shall enter into an agreement with the authority under which:

(1) the commissioner, acting on behalf of each school district whose bonds are being refunded under this subchapter, may pledge the allocated revenue to secure the payment of the principal of and interest and premium on authority obligations; and

(2) each school year, the commissioner shall allocate and distribute to the authority allocated revenue equal to the scheduled debt service payments for that year on the bonds being refunded.

(b) An agreement under this section must state that the funding for allocated revenue is subject to legislative appropriation. A distribution to the authority under the agreement is considered to be a distribution for purposes of Section 46.009. If the commissioner determines that the amount appropriated for any year for allocated revenue is insufficient, the commissioner may act under Section 46.009(b) to ensure the sufficiency of allocated revenue.

Sec. 46.096. USE OF PROCEEDS OF AUTHORITY OBLIGATIONS. (a) The authority shall use the proceeds of authority obligations, less the cost of issuing those obligations and the cost of administrative expenses incurred by the commissioner or the authority relating to the administration of this subchapter, to refund and defease eligible bonds as requested by the commissioner. To accomplish the refunding and defeasance:

(1) the commissioner, on behalf of the school districts issuing the bonds, may:

(A) exercise any reserved right of optional redemption; and

(B) issue any required notice of redemption and defeasance; and

(2) the authority, on behalf of the districts issuing the bonds, may enter into escrow agreements and purchase escrow securities as provided by Chapter 1207, Government Code, with the same effect under that chapter as if the authority were the issuer of the bonds being refunded and defeased.

(b) The authority shall provide to a school district whose bonds are refunded under this subchapter appropriate documentation showing that the bonds have been refunded and defeased.

Sec. 46.097. PAYMENT OF OBLIGATION ADMINISTRATIVE EXPENSES. After paying the current debt service on authority obligations, the authority may use allocated revenue to pay obligation administrative expenses.

Sec. 46.098. DISTRIBUTION OF ALLOCATED REVENUE IN EXCESS OF DISTRICT'S ENTITLEMENT TO STATE ASSISTANCE. (a) If the commissioner allocates and distributes to the authority allocated revenue for a school district's bonds refunded under this subchapter in an amount in excess of the state assistance to which the district is entitled in connection with all of the district's bonds, the district shall reimburse the commissioner in the amount of the excess.

(b) If a school district elects not to reimburse the commissioner in the amount of excess state assistance as required under Subsection (a), the commissioner shall direct the comptroller to withhold the amount of the excess from the succeeding payment of state assistance payable to the school district and credit the amount to the account or accounts from which the excess payment was made.

(c) A school may reimburse the commissioner under this section from any lawfully available source.

Sec. 46.099. REFUNDING OF AUTHORITY OBLIGATIONS. The authority may issue authority obligations to refund any previously issued authority obligations if the authority by resolution determines that the issuance of refunding obligations will result in the lowest practicable borrowing cost to the state and school districts with outstanding eligible bonds.

Sec. 46.100. AUTHORITY OBLIGATIONS NOT A PLEDGE OF STATE'S CREDIT. (a) Authority obligations and any related credit agreements are not:



(1) a debt of the state, a state agency, or a political subdivision of the state;

or

(2) a pledge of the faith and credit or taxing power of the state, a state agency, or a political subdivision of the state.

(b) Authority obligations and any related credit agreements are payable solely from allocated revenue pledged to the payment of those obligations.

(c) Subject to the limitations of Subsection (a), as long as authority obligations are outstanding, the state may not:

(1) take any action to limit or restrict the authority's responsibility to pay the authority obligations; or

(2) in any way impair the rights and remedies of the owners of authority obligations.

(d) The reallocation of allocated revenue to secure authority obligations to refund school district bonds is:

(1) consistent with the original authorization, allocation, and application of state assistance under Subchapter A or B;

(2) in furtherance of any covenants, agreements, or undertakings by school districts or the commissioner to cause allocated revenue to be credited to debt service funds for school district bonds; and

(3) consistent with all statutory and regulatory dedications and restrictions on the allocated revenue.

(3) In Section 2B.05 of the bill, in added Section 29.092(b), Education Code (page 28, line 39), after "commissioner." insert "To the extent practicable, the grant process developed by the commissioner under this subsection must comply with Subchapter E, Chapter 7."

(4) Strike Section 2C.17 of the bill (page 40, line 63, through page 41, line 16).

(5) In Part C, Article 2, of the bill (page 41, between lines 31 and 32), add the following appropriately numbered sections:

SECTION 2C.\_\_. Section 39.053(a), Education Code, is amended to read as follows:

(a) Each board of trustees shall publish an annual report describing the educational performance of the district and of each campus in the district that includes uniform student performance and descriptive information as determined under rules adopted by the commissioner. The annual report must also include:

(1) campus performance objectives established under Section 11.253 and the progress of each campus toward those objectives, which shall be available to the public;

(2) the academic performance rating for the district and each campus in the district as provided under Section 39.072 [~~39.072(a) and the performance rating of each campus in the district as provided under Section 39.072(e)~~];

(3) the district's current special education compliance status with the agency;

(4) a statement of the number, rate, and type of violent or criminal incidents that occurred on each district campus, to the extent permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g);

(5) information concerning school violence prevention and violence intervention policies and procedures that the district is using to protect students; ~~and~~

(6) the findings that result from evaluations conducted under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. Section 7101 et seq.) ~~and its subsequent amendments~~; and

(7) information received under Section 51.403(e) for each high school campus in the district, presented in a form determined by the commissioner.

SECTION 2C.\_\_. Section 39.055, Education Code, is amended to read as follows:

Sec. 39.055. ~~[ANNUAL]~~ AUDIT OF DROPOUT RECORDS; REPORT. (a) The commissioner shall develop a process for auditing school district dropout records electronically. The commissioner shall also develop a system and standards for review of the audit or use systems already available at the agency. The system must be designed to identify districts that are at high risk of having inaccurate dropout records and that, as a result, may be subject to a special accreditation investigation under Section 39.075 ~~[require on site monitoring of dropout records. If the electronic audit of a district's dropout records indicates that a district is not at high risk of having inaccurate dropout records, the district may not be subject to on site monitoring under this subsection. If the risk based system indicates that a district is at high risk of having inaccurate dropout records, the district is entitled to an opportunity to respond to the commissioner's determination before on site monitoring may be conducted. The district must respond not later than the 30th day after the date the commissioner notifies the district of the commissioner's determination. If the district's response does not change the commissioner's determination that the district is at high risk of having inaccurate dropout records or if the district does not respond in a timely manner, the commissioner shall order agency staff to conduct on site monitoring of the district's dropout records].~~

(b) ~~(c)~~ The commissioner shall notify the superintendent ~~[board of trustees]~~ of a school district of any objection the commissioner has to the district's dropout data, any violation of sound accounting practices or of a law or rule revealed by the data, or any recommendation by the commissioner concerning the data. If the data reflect that a penal law has been violated, the commissioner shall notify the county attorney, district attorney, or criminal district attorney, as appropriate, and the attorney general. The commissioner is entitled to access to all district records the commissioner considers necessary or appropriate for the review, analysis, or approval of district dropout data.

(6) Strike Section 2C.19 of the bill (page 41, lines 32 through 62), and substitute the following appropriately numbered section:

SECTION 2C.\_\_. Sections 39.071 and 39.072, Education Code, are amended to read as follows:

Sec. 39.071. ACCREDITATION. (a) Accreditation of a school district is determined in accordance with this section ~~[subchapter]~~.

(b) Each year, the commissioner shall determine the accreditation status of each school district. In determining accreditation status, the commissioner:

(1) shall evaluate and consider the performance of the district under:

(A) the academic accountability system under Section 39.072; and

(B) the financial accountability system under Subchapter I;

(2) shall evaluate and consider:

(A) the results of any special accreditation investigation under Section 39.075; and

(B) the district's current special education monitoring or compliance status with the agency; and

(3) may consider:

(A) the district's compliance with statutory requirements and requirements imposed by rule of the commissioner or State Board of Education under specific statutory authority that relate to:

(i) reporting data through the Public Education Information Management System (PEIMS) or other reports required by state or federal law or court order;

(ii) the high school graduation requirements under Section 28.025;

or

(iii) an item listed under Sections 7.056(e)(3)(C)-(I) that applies to the district;

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

(C) the effectiveness of the district's career and technology program.

(c) Based on a school district's performance under Subsection (b), the commissioner shall:

(1) assign a district an accreditation status of:

(A) accredited;

(B) accredited-warned; or

(C) accredited-probation; or

(2) revoke the accreditation of the district and order closure of the district under Section 39.1332.

(d) The commissioner shall notify a school district that receives an accreditation status of accredited-warned or accredited-probation that the performance of the district is below a standard required under this section. The commissioner shall require the district to notify the parents of students enrolled in the district and property owners in the district of the district's accreditation status and the implications of that accreditation status.

(e) A school district that is not accredited may not receive funds from the agency or hold itself out as operating a public school of this state.

(f) This chapter may not be construed to invalidate a diploma awarded, course credit earned, or grade promotion granted by a school district before the commissioner revoked the district's accreditation.

Sec. 39.072. ACADEMIC ACCOUNTABILITY SYSTEM [ACCREDITATION STANDARDS]. (a) The commissioner [State Board of Education] shall adopt rules for assigning [to evaluate the performance of school districts and to assign] to each school district and campus a performance rating as follows:

(1) exemplary (meets or exceeds state exemplary standards);

(2) recognized (meets or exceeds required improvement or ~~and~~ within 10 percent of state exemplary standards);

(3) academically acceptable (below the exemplary and recognized standards but exceeds the academically unacceptable standards); or

(4) academically unacceptable (below the state clearly unacceptable performance standard and does not meet required improvement).

(b) The academic excellence indicators adopted under Section 39.051(b) ~~[Sections 39.051(b)(1) through (7) and the district's current special education compliance status with the agency]~~ shall be the main considerations of the agency in the rating of a school ~~[the] district or campus~~ under this section. ~~[Additional criteria in the rules may include consideration of:~~

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

~~[(A) reporting data through the Public Education Information Management System (PEIMS);~~

~~[(B) the high school graduation requirements under Section 28.025; or~~

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

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

~~[(3) the effectiveness of the district's career and technology programs.]~~

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

(d) The agency shall annually review the performance of each school district and campus and determine if a change in the academic performance rating of the district or campus is warranted. Notwithstanding any other provision of this code, the commissioner shall determine how the indicators adopted under Section 39.051(b) may be used to determine academic performance ratings and to select districts and campuses for acknowledgment.

(e) Each annual review shall include an analysis of the indicators under Section 39.051(b) to determine district and campus performance in relation to:

(1) state standards established for each indicator;

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

(3) comparable improvement as determined under Section 39.051(c).

(f) The academic performance rating of a school district may be raised or lowered based on the district's performance or may be lowered based on the unacceptable performance of one or more campuses in the district. The academic performance rating of a school district may also be lowered based on a determination that data provided to the agency by the district that is necessary for conducting an annual review under this section is unreliable.

(g) The commissioner shall notify a school district if the performance of the district or a campus in the district is below a standard required under this section. The commissioner shall require the school district to notify the parents of students who are enrolled in the district and property owners in the district of the academic performance rating and the implications of that rating.

(h) 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 [accreditation status] of the district or school, a student attending a campus that is a [confined by court order in a residential program or] facility operated by or under contract with the Texas Youth Commission, a pre-adjudication secure detention facility or a post-adjudication secure correctional facility that is registered with the Texas Juvenile Probation Commission, or a residential facility is not considered to be a student of the school district or open-enrollment charter school serving the student [in which the program or facility is physically located]. The performance of a student who attends such a campus [student] on an assessment instrument or other academic excellence indicator adopted under Section 39.051 shall be determined and[-] reported, but may not be 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. [and considered separately from the performance of students attending a school of the district in which the program or facility is physically located.]

(7) Strike Sections 2C.21 and 2C.22 of the bill (page 42, lines 6 through 29), and substitute the following appropriately numbered sections of Part C:

SECTION 2C. \_\_. Section 39.075(a), Education Code, is amended to read as follows:

(a) The commissioner may [~~shall~~] authorize special accreditation investigations to be conducted:

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

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

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

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

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

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

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

(8) in response to questions concerning a program, including special education, required by federal law or for which the district receives federal funds;

(9) when an annual review indicates the academically unacceptable performance under Section 39.072 of one or more campuses in a district, except that the resulting investigation is limited to those campuses;

(10) in response to concerns regarding the integrity of data submitted to the agency;

(11) in response to allegations of a violation of student assessment procedures for assessment instruments adopted under Section 39.023; or

(12) as the commissioner otherwise determines necessary.

SECTION 2C. \_\_. Section 39.075(c), Education Code, as amended by Chapters 396 and 931, Acts of the 77th Legislature, Regular Session, 1999, is reenacted and amended to read as follows:

(c) Based on the results of a special accreditation investigation, the commissioner may:

(1) take appropriate action under Subchapter G;

(2) raise or lower the district's accreditation status [rating]; or

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

SECTION 2C. \_\_. Section 39.076, Education Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3), and (c) to read as follows:

(a) The agency shall adopt written procedures for conducting ~~[on-site]~~ investigations under this subchapter. The agency shall make the procedures available to the complainant, the alleged violator, and the public. Agency staff must be trained in the procedures and must follow the procedures in conducting the investigation.

(a-1) An investigation conducted under this subchapter may be an on-site, desk, or data-based investigation as determined by the commissioner.

(a-2) If conducting an on-site investigation, the investigators may obtain information from administrators, teachers, or parents of students enrolled in the school district. The commissioner shall adopt rules for:

(1) obtaining information from parents and using that information in the investigator's report; and

(2) obtaining information from teachers in a manner that prevents a campus or district from screening the information.

(a-3) The agency may give written notice of any impending on-site investigation to the superintendent and the board of trustees of a school district.

(c) The investigators conducting an on-site investigation shall report the results of the investigation orally and in writing to the board of trustees of the district and, as appropriate, to campus administrators, and shall make recommendations concerning any necessary improvements or sources of aid, such as regional education service centers.

SECTION 2C. \_\_. Subchapter D, Chapter 39, Education Code, is amended by adding Sections 39.077 and 39.078 to read as follows:

Sec. 39.077. FINALITY OF DECISION BY COMMISSIONER. (a) A school district or open-enrollment charter school that wishes to challenge a decision to assign or lower an accreditation status, an academic performance rating, or a financial accountability rating must petition for an informal review as provided by Section 7.0571.

(b) A final decision by the commissioner to assign or lower an accreditation status, an academic performance rating, or a financial accountability rating following a review under Section 7.0571 is final and may not be appealed.

Sec. 39.078. RULES. (a) The commissioner may adopt rules as necessary to administer this subchapter.

(b) Unless a provision of this code clearly specifies otherwise, any rule adopted under Subsection (a) must apply accreditation requirements and academic performance ratings under this subchapter to:

(1) an open-enrollment charter school in the same manner as the requirements and ratings are applied to a school district; and

(2) a campus operated by an open-enrollment charter school in the same manner as the requirements and ratings are applied to a campus operated by a school district.

(8) In Part C, Article 2, of the bill (page 43, between lines 8 and 9), add the following appropriately numbered section:

SECTION 2C. \_\_. Section 39.131, Education Code, is amended to read as follows:

Sec. 39.131. SANCTIONS FOR DISTRICTS. (a) If a school district does not satisfy the accreditation criteria under Section 39.071, the academic performance standards under Section 39.072, or any financial accountability standard as determined by commissioner rule, the commissioner shall take any of the following actions~~[, listed in order of severity,]~~ to the extent the commissioner determines necessary:

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

(2) order a hearing conducted by the board of trustees of the district for the purpose of notifying the public of the unacceptable performance, the improvements in performance expected by the agency, and the sanctions that may be imposed under this section if the performance does not improve;

(3) order the preparation of a student achievement improvement plan that addresses each academic excellence indicator for which the district's performance is unacceptable, the submission of the plan to the commissioner for approval, and implementation of the plan;

(4) order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board of trustees of the district and the superintendent shall appear and explain the district's low performance, lack of improvement, and plans for improvement;

(5) arrange an on-site investigation of the district;

(6) appoint an agency monitor to participate in and report to the agency on the activities of the board of trustees or the superintendent;

(7) appoint a conservator to oversee the operations of the district;

(8) appoint a management team to direct the operations of the district in areas of unacceptable performance or require the district to obtain certain services under a contract with another person;

(9) if a district has a current accreditation status of accredited-warned or accredited-probation, is ~~been~~ rated ~~as~~ academically unacceptable, or fails to satisfy financial accountability standards as determined by commissioner rule ~~[for a period of one year or more]~~, appoint a board of managers to exercise the powers and duties of the board of trustees;

(10) if for two consecutive school years, including the current school year, a district has received an accreditation status of accredited-warned or accredited-probation, has been rated academically unacceptable, or has failed to satisfy financial accountability standards as determined by commissioner rule, revoke the district's accreditation and ~~[been rated as academically unacceptable for a period of two years or more]~~;

(A) order closure of the district and annex the district to one or more adjoining districts under Section 13.054; or

(B) in the case of a home-rule school district or open-enrollment charter school, order closure of all programs operated under the district's or school's charter; or

(11) if a district has been rated ~~as~~ academically unacceptable for ~~[a period of two consecutive school years, including the current school year, or more]~~ due to the district's dropout rates, impose sanctions designed to improve high school completion rates, including:

(A) ordering the development of a dropout prevention plan for approval by the commissioner;

(B) restructuring the district or appropriate school campuses to improve identification of and service to students who are at risk of dropping out of school, as defined by Section 29.081;

(C) ordering lower student-to-counselor ratios on school campuses with high dropout rates; and

(D) ordering the use of any other intervention strategy effective in reducing dropout rates, including mentor programs and flexible class scheduling.

(b) This subsection applies regardless of whether a district has satisfied the accreditation criteria. If for two consecutive school years, including the current school year, ~~[a period of one year or more]~~ a district has had a conservator or management team assigned, the commissioner may appoint a board of managers, a majority of whom must be residents of the district, to exercise the powers and duties of the board of trustees.

(9) In Section 2C.24 of the bill, in amended Section 39.132(a), Education Code (page 43, line 13), strike "39.073" and substitute "39.072".

(10) In Section 2C.24 of the bill, in added Section 39.132(a-2), Education Code (page 44, line 15), strike "intervention" and substitute "assistance".

(11) In Section 2C.24 of the bill, in added Section 39.132(a-3), Education Code (page 44, line 45), strike "intervention" and substitute "assistance".

(12) In Section 2C.24 of the bill, in amended Section 39.132, Education Code (page 44, lines 54 through 62), strike Subsection (a-4).



(13) In Section 2C.24 of the bill, in amended Section 39.132(b), Education Code (page 44, line 65), between "years" and "[~~or more~~]", insert ", including the current school year".

(14) In Section 2C.24 of the bill, in amended Section 39.132(b), Education Code (page 44, line 68), between "campus" and "or pursue", insert "and assign a special campus intervention team".

(15) In Section 2C.24 of the bill, in amended Section 39.132, Education Code (page 45, between lines 39 and 40), insert the following:

(f) Notwithstanding any other provision of this subchapter, if the commissioner determines that an intervention under Subsection (b) or Section 39.1321 cannot reasonably be expected to achieve timely improvement at a campus that has been identified as academically unacceptable for two consecutive school years, including the current school year, the commissioner may order the closure of the campus.

(16) In Section 2C.25 of the bill, in added Section 39.1321(a), Education Code (page 45, line 43), strike "A campus" and substitute "Except as provided by Section 39.132(f), a campus".

(17) In Section 2C.25 of the bill, in added Section 39.1321(a), Education Code (page 45, line 45), between "years" and the period, insert ", including the current school year".

(18) In Part C, Article 2, of the bill (page 47, between lines 12 and 13), add the following appropriately numbered sections:

SECTION 2C. \_\_. Section 39.133, Education Code, is amended to read as follows:

Sec. 39.133. ANNUAL REVIEW. (a) The commissioner shall review annually the performance of a district or campus subject to a sanction under this subchapter to determine the appropriate actions to be implemented under this subchapter. The determination shall take into account the number, severity, and duration of the problems identified. [The commissioner must review at least annually the performance of a district for which the accreditation rating has been lowered due to unacceptable student performance and may not raise the rating until the district has demonstrated improved student performance.] If the review reveals a lack of improvement, the commissioner shall increase the level of state intervention and sanction unless the commissioner finds good cause for maintaining the current status.

(b) The commissioner shall review at least annually the performance of a school district for which the academic performance rating has been lowered due to unacceptable student performance and may not raise the rating until the district has demonstrated improved student performance.

SECTION 2C. \_\_. Subchapter G, Chapter 39, Education Code, is amended by adding Sections 39.1331, 39.1332, and 39.1333 to read as follows:

Sec. 39.1331. ACQUISITION OF PROFESSIONAL SERVICES. In addition to other sanctions authorized under Sections 39.131 and 39.132, the commissioner may order a school district or campus to acquire professional services at the expense of the district or campus to address the applicable financial, assessment, data quality, program, or governance deficiency. The commissioner's order may require the district or campus to:

(1) select an external auditor, data quality expert, professional authorized to monitor district assessment instrument administration, or curriculum or program expert; or

(2) provide for the appropriate training of district staff or board of trustees members in the case of a district, or campus staff, in the case of a campus.

Sec. 39.1332. CLOSURE OF SCHOOL DISTRICT OR CAMPUS. (a) The commissioner may revoke the accreditation of a school district and order the closure of the district or a campus, as appropriate, under the following circumstances:

(1) the commissioner is authorized to close the district or campus under Section 39.131(a)(10) or 39.132(f);

(2) the commissioner determines that the district is insolvent and unable to complete the school year; or

(3) the commissioner determines that the district has ceased operations for 11 or more instructional days during the current or most recent scheduled school year without the commissioner's authorization.

(b) The commissioner shall issue an order of closure under this section that includes provisions necessary for the continuation of the education of students enrolled in the district or campus, including annexation to one or more adjoining districts as provided by Section 13.054. An order of closure may:

(1) establish an effective date for accreditation revocation and closure that is not later than the first anniversary of the date of the order;

(2) provide for an interim board of managers to exercise the duties of the board of trustees of the district as designated by the commissioner;

(3) require enrollment or student services to be provided by another district as necessary to allow students enrolled in the closed district to complete a school year, and make adjustments in the state and federal funding to which the district would otherwise be entitled as determined by the commissioner; and

(4) require the preservation, transfer, or surrender of all student records and other records required for an audit of any state and federal funding provided to the district.

(c) A person who intentionally destroys, conceals, or tampers with a record that is required to be preserved, transferred, or surrendered under Subsection (b)(4) commits an offense punishable under Section 37.10(c)(2), Penal Code.

(d) A board of managers exercising authority under Subsection (b)(2) may exercise the authority of the board of trustees with regard to financial management of the district and personnel actions. The board of managers is not required to be composed of residents of the district.

(e) An open-enrollment charter school ordered closed under this section is not entitled to a separate hearing concerning the revocation or nonrenewal of the charter under Section 12.116.

Sec. 39.1333. FINALITY OF DECISION BY COMMISSIONER. (a) A school district or open-enrollment charter school that wishes to challenge a decision to impose a sanction under this subchapter, including a decision to close a district, school, or campus under Section 39.1332, must petition for an informal review as provided by Section 7.0571.

(b) A final decision by the commissioner to impose a sanction under this subchapter, including a decision to close a school district or a campus under Section 39.1332, following a review under Section 7.0571 is final and may not be appealed.

(c) A school district may not collaterally contest an academic performance rating or other accreditation standard as part of the review of a sanction under this subchapter if a review opportunity has already been provided for the academic performance rating.

SECTION 2C.\_\_. Section 39.134, Education Code, is amended to read as follows:

Sec. 39.134. COSTS PAID BY DISTRICT. The costs of providing a monitor, conservator, management team, ~~or~~ special campus intervention team, technical assistance team, managing entity under Section 39.1321, or service provider under Section 39.1331 shall be paid by the district. If the district fails or refuses to pay the costs in a timely manner, the commissioner may:

(1) pay the costs using amounts withheld from any funds to which the district is otherwise entitled; or

(2) recover the amount of the costs in the manner provided for recovery of an overallocation of state funds under Section 42.258.

(19) In Section 2C.26 of the bill, in added Section 39.1371(b), Education Code (page 47, line 19), between "of" and "special", insert "technical assistance teams and".

(20) In Part C, Article 2, of the bill (page 49, between lines 47 and 48), add the following appropriately numbered section:

SECTION 2C.\_\_. Section 39.182, Education Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) The report must include an assessment of the impact of the performance-based grant system developed under Subchapter E, Chapter 7, on student academic performance, including:

(1) an analysis of performance and spending information relating to grants administered by the agency; and

(2) recommendations on any statutory changes needed for the agency to more effectively administer grant programs, including recommendations on whether to eliminate or modify inefficient grant programs, expand effective grant programs, or consolidate similar grant programs to maximize the effectiveness and efficiencies of those programs.

(b-2) Subsection (b-1) applies beginning January 1, 2009. This subsection expires February 1, 2009.

(21) Renumber sections of Part C, Article 2, of the bill accordingly.

(22) In the heading to Part F, Article 2, of the bill (page 65, line 39), strike "STATE GOVERNANCE" and substitute "STATE AND REGIONAL GOVERNANCE".

(23) In Part F, Article 2, of the bill (page 65, between lines 39 and 40), add the following appropriately numbered sections:

SECTION 2F.\_\_. Section 7.004, Education Code, is amended to read as follows:

Sec. 7.004. SUNSET PROVISION. (a) The Texas Education Agency is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the agency is abolished September 1, 2017 [2005].

(b) A review conducted under Chapter 325, Government Code (Texas Sunset Act), in accordance with this section must include a review of the regional education service centers under Chapter 8.

SECTION 2F. \_\_. Subchapter A, Chapter 7, Education Code, is amended by adding Section 7.010 to read as follows:

Sec. 7.010. BEST PRACTICES. (a) Using existing funds and other resources available for the purpose, the agency and the regional education service centers shall solicit and collect from exemplary or recognized school districts and open-enrollment charter schools, as rated under Section 39.072, best practices information and shall disseminate that information. The agency and the regional education service centers shall enter into a memorandum of understanding that establishes the respective duties of the agency and the regional education service centers in soliciting, collecting, and disseminating the best practices information.

(b) The best practices information may include:

(1) information concerning available programs, products, and policies that have been successfully adopted or developed and used by school districts or open-enrollment charter schools;

(2) specific examples of successful best practices; and

(3) resources available to assist school districts and open-enrollment charter schools in complying with applicable state or federal education laws.

(c) The best practices information must include information collected by the agency or a regional education service center concerning the effective use of online courses, including:

(1) methods for using online courses to provide curriculum solutions;

(2) information to assist school districts and open-enrollment charter schools in investigating the quality of online courses; and

(3) a list of funding sources available for various types of online courses.

(d) The agency and the regional education service centers are not required to evaluate and may not endorse the best practices information collected under this section.

(e) The agency and the regional education service centers shall develop incentives for school districts and open-enrollment charter schools to implement best practices.

(24) In Part F, Article 2, of the bill (page 65, between lines 45 and 46), insert the following appropriately numbered sections and renumber the subsequent sections of Part F accordingly:

SECTION 2F. \_\_. Section 7.027, Education Code, as added by Chapter 201, Acts of the 78th Legislature, Regular Session, 2003, is redesignated as Section 7.028, Education Code, and amended to read as follows:

Sec. 7.028 [7.027]. LIMITATION ON COMPLIANCE MONITORING. (a) Except as provided by Section 29.001(5), 29.010(a), [39.074,] or 39.075, the agency may monitor compliance with requirements applicable to a process or program provided by a school district, campus, program, or school granted charters under

Chapter 12, including the process described by Subchapter F, Chapter 11, or a program described by Subchapter B, C, D, E, F, H, or I, Chapter 29, Subchapter A, Chapter 37, or Section 38.003, and the use of funds provided for such a program under Subchapter C, Chapter 42, only as necessary to ensure:

- (1) compliance with federal law and regulations;
- (2) financial accountability, including compliance with grant requirements;

and

- (3) data integrity for purposes of:

- (A) the Public Education Information Management System (PEIMS);

and

- (B) accountability under Chapter 39.

(b) The board of trustees of a school district or the governing body of an open-enrollment charter school has primary responsibility for ensuring that the district or school complies with all applicable requirements of state educational programs.

SECTION 2F. \_\_. Subchapter B, Chapter 7, Education Code, is amended by adding Section 7.033 to read as follows:

Sec. 7.033. COMPREHENSIVE MONITORING SYSTEM. To the extent permissible under Section 7.028, the agency shall develop and implement a comprehensive, integrated monitoring system for monitoring school district and charter school overall performance under and compliance with federal and state education laws. The system must incorporate performance and compliance information collected by various agency divisions for each school district and charter school, including information relating to:

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

SECTION 2F. \_\_. Sections 7.057(a) and (d), Education Code, are amended to read as follows:

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

- (1) the school laws of this state; or
- (2) actions or decisions of any school district board of trustees that violate:
  - (A) the school laws of this state; or
  - (B) a provision of a written employment contract between the school

district and a school district employee, if a violation causes or would cause monetary harm to the employee.

(d) Except as provided by Section 7.0571, a [A] person aggrieved by an action of the agency or decision of the commissioner may appeal to a district court in Travis County. An appeal must be made by serving the commissioner with citation issued and served in the manner provided by law for civil suits. The petition must state the action or decision from which the appeal is taken. At trial, the court shall determine all issues of law and fact, except as provided by Section 33.081(g).

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

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

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

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

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

#### SUBCHAPTER E. PERFORMANCE-BASED GRANT SYSTEM

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

(b) The grant system must:

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

and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) a grant program's objectives; and

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

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

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

(b) This section expires June 1, 2010.

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

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

(c) This section expires June 1, 2010.

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

Sec. 8.0031. TRAINING FOR MEMBERS OF BOARD OF DIRECTORS. (a) The commissioner shall adopt rules prescribing training for members of regional education service center boards of directors. The training curriculum may include:

(1) an overview of this code and any rules adopted under this code;

(2) a review of recent state and federal education legislation, rules, and regulations;

(3) a review of the powers and duties of a regional education service center board of directors; and

(4) a review of any statewide or regional strategic planning applicable to regional education service centers.

(b) A member of a regional education service center board of directors must complete any training required by commissioner rule.

SECTION 2F. \_\_. Sections 8.051(b), (c), and (d), Education Code, are amended to read as follows:

(b) Each regional education service center shall annually develop and submit to the commissioner for approval a plan for improvement. Each plan must include the purposes and description of the services the center will provide to:

- (1) campuses ~~rated academically unacceptable [identified as low performing based on the indicators adopted]~~ under Section ~~39.072 [39.051]~~;
- (2) the lowest-performing campuses in the region; and
- (3) other campuses.

(c) Each regional education service center shall provide services that enable school districts to operate more efficiently and economically, including collecting and disseminating:

- (1) best practices information as provided by Section 7.010; and
- (2) information concerning successful grant programs to school districts as provided by Section 7.156.

(d) Each regional education service center shall maintain core services for purchase by school districts and campuses. The core services are:

- (1) training and assistance in teaching each subject area assessed under Section 39.023;
- (2) training and assistance in providing each program that qualifies for a funding allotment under Section 42.151, 42.152, 42.153, or 42.156;
- (3) assistance specifically designed for a school district or campus rated academically unacceptable under Section 39.072 ~~[39.072(a)] or a campus whose performance is considered unacceptable based on the indicators adopted under Section 39.051];~~
- (4) training and assistance to teachers, administrators, members of district boards of trustees, and members of site-based decision-making committees;
- (5) assistance specifically designed for a school district that is considered out of compliance with state or federal special education requirements, based on the agency's most recent compliance review of the district's special education programs; and
- (6) assistance in complying with state laws and rules.

SECTION 2F. \_\_. Subchapter A, Chapter 29, Education Code, is amended by adding Sections 29.0162 and 29.0163 to read as follows:

Sec. 29.0162. INFORMATION REGARDING SPECIAL EDUCATION DUE PROCESS HEARINGS. (a) The agency shall make available to a parent, student, school district, attorney, or other interested person, and shall place on the agency's Internet website, comprehensive, easily understood information concerning the special education due process hearing process.

- (b) The information described by Subsection (a) must include:
- (1) a description of the steps in the due process hearing process;
  - (2) the text of any applicable administrative, procedural, or evidentiary rule;
  - (3) a description of any notice requirements;
  - (4) an explanation of options for alternative dispute resolution, including mediation;
  - (5) an explanation of a resolution session;



(6) answers to frequently asked questions; and  
(7) other sources of information, including electronic sources of information, such as special education case law available on the Internet.

Sec. 29.0163. COLLECTION AND ANALYSIS OF INFORMATION CONCERNING SPECIAL EDUCATION HEARING OFFICERS. (a) The agency shall collect and at least biennially analyze any information, including complaint information, relating to the performance of a special education hearing officer for use in assessing:

(1) the effectiveness of the due process hearing process; and

(2) the performance of a special education hearing officer.

(b) The agency shall use the information described by Subsection (a) in determining whether to renew a contract with a special education hearing officer.

(25) In Section 2G.02 of the bill, in amended Section 37.008(m), Education Code (page 66, lines 23 and 24), strike "7.027, as added by Chapter 201, Acts of the 78th Legislature, Regular Session, 2003" and substitute "7.028".

(26) In Section 2G.02 of the bill, in amended Section 37.008(m-1), Education Code (page 66, lines 38 and 39), strike "7.027(a), as added by Chapter 201, Acts of the 78th Legislature, Regular Session, 2003" and substitute "7.028(a)".

(27) Strike Section 4.54 of the bill (page 121, lines 53 through 64), and renumber the subsequent sections of Article 4 accordingly.

(28) In Part B, Article 5, of the bill (page 131, between lines 1 and 2), add the following appropriately numbered section:

SECTION 5B. \_\_. Section 21.453(b), Education Code, is amended to read as follows:

(b) The commissioner may allocate funds from the account to regional education service centers to provide staff development resources to school districts that:

(1) are rated academically unacceptable;

(2) have one or more campuses rated academically unacceptable [~~as low performing~~]; or

(3) are otherwise in need of assistance as indicated by the academic performance of students, as determined by the commissioner.

(29) In Part B, Article 5, of the bill (page 131, between lines 17 and 18), insert the following appropriately numbered section:

SECTION 5B. \_\_. Section 29.202(a), Education Code, is amended to read as follows:

(a) A student is 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 is assigned to attend a public school campus:

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

(2) that was, at any time in the preceding three years, considered academically unacceptable [~~low performing~~] under Section 39.132.

(30) In Section 5B.17 of the bill, in amended Section 2175.304(c), Government Code (page 133, line 6), strike "low-performing by the commissioner of education" and substitute "academically unacceptable under Section 39.132, Education Code, [low performing by the commissioner of education]".

(31) In Part B, Article 5, of the bill (page 133, between lines 23 and 24), add the following appropriately numbered section:

SECTION 5B.\_\_. Section 302.006(c), Labor Code, is amended to read as follows:

(c) To be eligible to receive a scholarship awarded under this section, a person must:

(1) be employed in a child-care facility, as defined by Section 42.002, Human Resources Code;

(2) intend to obtain a credential, certificate, or degree specified in Subsection (b);

(3) agree to work for at least 18 additional months in a child-care facility, as defined by Section 42.002, Human Resources Code, that accepts federal Child Care Development Fund subsidies and that, at the time the person begins to fulfill the work requirement imposed by this subdivision, is located:

(A) within the attendance zone of a public school campus considered academically unacceptable [~~low performing~~] under Section 39.132, Education Code; or

(B) in an economically disadvantaged community, as determined by the commission; and

(4) satisfy any other requirements adopted by the commission.

(32) Renumber the sections of Part B, Article 5, of the bill accordingly.

(33) In Section 6.01(4) of the bill (page 134, line 18), between "7.006," and "29.056(h)", insert "8.010,".

(34) In Section 6.01(4) of the bill (page 134, line 19), between "(f)," and "and 42.253(e-1)", insert "39.051(d), 39.073, 39.074,".

The amendment was read.

Senator West offered the following amendment to Floor Amendment No. 6:

### **Floor Amendment No. 7**

Amend Floor Amendment No. 6 to **CSHB 2** as follows:

(1) Strike Item (10) of the amendment (page 23, lines 20 through 22) and substitute the following:

(10) In Section 2C.24 of the bill, in amended Section 39.132, Education Code (page 44, lines 54 through 62), strike Subsection (a-4) and substitute the following:

(a-4) The commissioner may determine when a technical assistance team's services are no longer needed at a campus under this section.

(2) Strike Item (11) of the amendment (page 23, lines 23 through 25) and substitute the following:

(11) In Section 2C.24 of the bill, in amended Section 39.132(b), Education Code (page 44, line 65), strike "[~~a period of~~] two consecutive school years" and substitute "three [~~a period of two~~] consecutive school years, including the current school year".

(3) In Item (15) of the amendment, in added Section 39.132(f), Education Code (page 24, line 14), strike "two" and substitute "three".

(4) In Item (15) of the amendment (page 24, between lines 16 and 17), insert the following:

(g) For the 2005-2006 school year, the commissioner shall assign a technical assistance team to a campus under Subsection (a-1) on the basis of academic performance ratings for the 2004-2005 school year. The commissioner may impose a sanction on a campus under Subsection (b) or (f) on the basis of academic performance ratings for the 2003-2004 and 2004-2005 school years. This subsection expires September 1, 2007.

(5) Strike Item (17) of the amendment (page 24, lines 21 through 23) and substitute the following:

(17) In Section 2C.25 of the bill, in added Section 39.1321(a), Education Code (page 24, line 21), strike "two consecutive school years" and substitute "three consecutive school years, including the current school year".

The amendment to Floor Amendment No. 6 to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 7.

Senator Barrientos offered the following amendment to Floor Amendment No. 6:

### **Floor Amendment No. 8**

Amend Floor Amendment No. 6 to **CSHB 2** by adding the following appropriately lettered part and relettering subsequent parts accordingly:

SECTION \_\_\_ . \_\_\_. Chapter 33, Education Code, is amended by adding Subchapter F to read as follows:

#### SUBCHAPTER F. SAFETY REGULATIONS FOR CERTAIN EXTRACURRICULAR ACTIVITIES

Sec. 33.201. APPLICABILITY. This subchapter applies to each public school in this state and to any other school in this state subject to University Interscholastic League regulations.

Sec. 33.202. SAFETY TRAINING REQUIRED. (a) The commissioner by rule shall develop and adopt a safety training program as provided by this section. In developing the program, the commissioner may use materials available from the American Red Cross or another appropriate entity.

(b) The following persons must satisfactorily complete the safety training program:

(1) a coach, trainer, or sponsor for an extracurricular athletic activity;

(2) except as provided by Subsection (f), a physician who is employed by a school or school district or who volunteers to assist with an extracurricular athletic activity; and

(3) a director responsible for a school marching band.

(c) The safety training program must include:

(1) certification of participants by the American Red Cross, the American Heart Association, or a similar organization or the University Interscholastic League, as determined by the commissioner;

(2) annual training in:

(A) emergency action planning;

(B) cardiopulmonary resuscitation if the person is not required to obtain certification under Section 33.086;

(C) communicating effectively with 9-1-1 emergency service operators and other emergency personnel; and

(D) recognizing symptoms of potentially catastrophic injuries, including head and neck injuries, concussions, injuries related to second impact syndrome, asthma attacks, heatstroke, cardiac arrest, and injuries requiring use of a defibrillator; and

(3) at least once each school year, a safety drill that incorporates the training described by Subdivision (2) and simulates various injuries described by Subdivision (2)(D).

(d) A student participating in an extracurricular athletic activity must receive training related to:

(1) recognizing the symptoms of injuries described by Subsection (c)(2)(D); and

(2) the risks of using supplements designed or marketed to enhance athletic performance.

(e) The safety training program and the training under Subsection (d) may each be conducted by a school or school district or by an organization described by Subsection (c)(1).

(f) A physician who is employed by a school or school district or who volunteers to assist with an extracurricular athletic activity is exempt from the requirements of Subsection (b) if the physician attends a continuing medical education course that specifically addresses emergency medicine for athletic team physicians.

Sec. 33.2021. COMPLETION OF UNIVERSITY INTERSCHOLASTIC LEAGUE MEDICAL HISTORY FORM. (a) Each student participating in an extracurricular athletic activity must complete the University Interscholastic League forms entitled "Preparticipation Physical Evaluation–Medical History" and "Acknowledgment of Rules." Each form must be signed by both the student and the student's parent or guardian.

(b) Each form described by Subsection (a) must clearly state that failure to accurately and truthfully answer all questions on a form required by statute or by the University Interscholastic League as a condition for participation in an extracurricular athletic activity subjects a signer of the form to penalties determined by the University Interscholastic League.

(c) The "Preparticipation Physical Evaluation–Medical History" form described by Subsection (a) must contain the following statement:

"An individual answering in the affirmative to any question relating to a possible cardiovascular health issue, as identified on the form, should be restricted from further participation until the individual is examined by the individual's primary care physician. Ultimately, the individual may need to

be evaluated by a cardiologist and/or undergo cardiac testing (including an echocardiogram and/or other heart-related examination) based on the assessment by the primary care physician."

Sec. 33.203. CERTAIN UNSAFE ATHLETIC ACTIVITIES PROHIBITED. A coach, trainer, or sponsor for an extracurricular athletic activity may not encourage or permit a student participating in the activity to engage in any unreasonably dangerous athletic technique that unnecessarily endangers the health of a student, including using a helmet or any other sports equipment as a weapon.

Sec. 33.204. CERTAIN SAFETY PRECAUTIONS REQUIRED. (a) A coach, trainer, or sponsor for an extracurricular athletic activity shall at each athletic practice or competition ensure that:

- (1) each student participating in the activity is adequately hydrated;
- (2) any prescribed asthma medication for a student participating in the activity is readily available to the student;
- (3) emergency lanes providing access to the practice or competition area are open and clear; and
- (4) heatstroke prevention materials are readily available.

(b) If a student participating in an extracurricular athletic activity, including a practice or competition, is rendered unconscious during the activity, the student may not:

- (1) return to the practice or competition during which the student was rendered unconscious; or
- (2) continue to participate in any extracurricular athletic activity until the student receives written authorization from a physician.

Sec. 33.205. COMPLIANCE; ENFORCEMENT. (a) On request, a school shall make available to the public proof of compliance for each person enrolled in, employed by, or volunteering for the school who is required to receive safety training described by Section 33.202.

(b) The superintendent of a school district or the director of a school subject to this subchapter shall maintain complete and accurate records of the district's or school's compliance with Section 33.202.

(c) A school campus that is determined by the school's superintendent or director to not be in compliance with Section 33.202, 33.204, or 33.205 shall discontinue all extracurricular athletic activities offered by the school campus, including all practices and competitions, until the superintendent or director determines that the school campus is in compliance.

Sec. 33.206. CONTACT INFORMATION. (a) The commissioner shall maintain an existing telephone number and an electronic mail address to allow a person to report a violation of this subchapter.

(b) Each school that offers an extracurricular athletic activity shall prominently display at the administrative offices of the school the telephone number and electronic mail address maintained under Subsection (a).

Sec. 33.207. NOTICE REQUIRED. (a) A school that offers an extracurricular athletic activity shall provide to each student participating in an extracurricular athletic activity and to the student's parent or guardian a copy of the text of Sections 33.201-33.207 and a copy of the University Interscholastic League's parent information manual.

(b) A document required to be provided under this section may be provided in an electronic format unless otherwise requested by a student, parent, or guardian.

Sec. 33.208. INCORPORATION OF SAFETY REGULATIONS. The University Interscholastic League shall incorporate the provisions of Sections 33.203-33.207 into the league's constitution and contest rules.

Sec. 33.209. LIABILITY. The requirements of this subchapter are not considered ministerial acts for purposes of immunity from liability under Section 22.0511.

SECTION \_\_\_\_ Subchapter D, Chapter 33, Education Code, is amended by adding Section 33.087 to read as follows:

Sec. 33.087. REPORT CONCERNING AUTOMATED EXTERNAL DEFIBRILLATORS. (a) Using existing funds and other resources available for the purpose, the agency and the University Interscholastic League shall jointly investigate the availability of federal, state, local, and private funds for purchasing automated external defibrillators, as defined by Section 779.001, Health and Safety Code, for use by University Interscholastic League member schools, and the possibility of receiving a bulk discount on such purchases.

(b) The agency and the University Interscholastic League shall submit a report describing the findings of the investigation to the legislature not later than June 1, 2006.

(c) This section expires July 1, 2006.

The amendment to Floor Amendment No. 6 to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 8.

Question recurring on the adoption of Floor Amendment No. 6 to **CSHB 2**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6 as amended.

Senator Carona offered the following amendment to the bill:

### **Floor Amendment No. 9**

Amend **CSHB 2** as follows:

(1) In PART B, ARTICLE 1 of the bill (committee printing, page 7, between lines 37 and 38), add the following appropriately numbered SECTION and renumber subsequent SECTIONS of PART B accordingly:

SECTION 1B. \_\_\_\_ Subchapter B, Chapter 42, Education Code, is amended by adding Section 42.1031 to read as follows:

Sec. 42.1031. INFLATION ADJUSTMENT. (a) In this section, "consumer price index" means the consumer price index for all urban consumers published by the federal Bureau of Labor Statistics.

(b) The amount of the accreditation allotment under Section 42.101, as adjusted under Sections 42.102 and 42.103, is adjusted in accordance with this section as necessary to reflect inflation.

(c) The commissioner shall determine the amount of the adjustment for each biennium based on the difference, if any, between the consumer price index most recently published as of January 1 of the calendar year in which the first year of the biennium begins and the consumer price index most recently published as of January 1, 2005.

(d) The commissioner's determination under this section is final and may not be appealed.

(2) In SECTION 1B.07 of the bill, in amended Section 42.104, Education Code (committee printing, page 7, line 45), between "42.103" and the period, insert "and further adjusted under Section 42.1031".

**(Senator Armbrister in Chair)**

The amendment to **CSHB 2** was read and failed of adoption by the following vote: Yeas 13, Nays 18.

Yeas: Barrientos, Carona, Ellis, Gallegos, Lucio, Madla, Nelson, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Nays: Armbrister, Averitt, Brimer, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hinojosa, Jackson, Janek, Lindsay, Ogden, Seliger, Shapiro, Staples, Williams.

Senator Zaffirini offered the following amendment to the bill:

**Floor Amendment No. 10**

Amend **CSHB 2** as follows:

(1) In SECTION 1A.08 of the bill, in added Subsection (b)(1), Section 42.2541, Education Code (committee printing, page 2, line 54), between "Act" and the semicolon, insert ", and any amounts the district received as a result of an agreement under Subchapter E, Chapter 41".

(2) In SECTION 1B.22 of the bill, in added Subsection (b)(1), Section 42.2541, Education Code (committee printing, page 13, line 53), between "year" and the semicolon, insert ", including any amounts the district received as a result of an agreement under Subchapter E, Chapter 41".

The amendment was read.

Senator Zaffirini withdrew Floor Amendment No. 10.

Senator Lucio offered the following amendment to the bill:

**Floor Amendment No. 11**

Amend **CSHB 2** as follows:

(1) In Section 1B.02 of the bill, in amended Section 42.007(c), Education Code (committee printing page 5, line 22), between "Chapter 46" and the period, insert ", including a specific amount not less than the amount designated in Section 46.003(a)".

that is at least sufficient to provide the financing of facilities under Subchapter A, Chapter 46, in districts that have a wealth per student, as determined under Section 42.302(a), that is less than the statewide average wealth per student".

(2) In Section 1B.14 of the bill, in amended Section 42.251(a), Education Code (committee printing page 10, line 46), between "chapter," and "constitute", insert "and the instructional facilities allotment under Subchapter A, Chapter 46,".

(3) In Section 1B.14 of the bill, in amended Section 42.251(b), Education Code (committee printing page 10, between lines 56 and 57), insert the following:

(4) ad valorem tax revenue generated by local school district effort for the purpose of funding instructional facilities under Subchapter A, Chapter 46;

(4) In Section 1B.14 of the bill, in amended Section 42.251(b), Education Code (committee printing page 10, line 57), strike "(4) [(3)]" and substitute "(5) [(3)]".

(5) In Section 1B.14 of the bill, in amended Section 42.251(b), Education Code (committee printing page 10, line 59), strike "(5) [(4)]" and substitute "(6) [(4)]".

(6) In Section 1B.20 of the bill, in the introductory language (committee printing page 12, line 12), strike "(a)" and substitute "(a)-(c)".

(7) In Section 1B.20 of the bill, in amended Section 42.253(a), Education Code (committee printing page 12, between lines 18 and 19), insert the following:

(3) the amount of money to which a school district is entitled under Subchapter A, Chapter 46;

(8) In Section 1B.20 of the bill, in amended Section 42.253(a), Education Code (committee printing page 12, line 19), strike "(3)" and substitute "(4)".

(9) In Section 1B.20 of the bill, in amended Section 42.253(a), Education Code (committee printing page 12, line 21), strike "(4)" and substitute "(5) [(4)]".

(10) In Section 1B.20 of the bill, in amended Section 42.253(a), Education Code (committee printing page 12, line 23), strike "(5)" and substitute "(6) [(5)]".

(11) In Section 1B.20 of the bill, in amended Section 42.253(a), Education Code (committee printing page 12, line 22), strike "; and" and substitute "; ~~and~~".

(12) In Section 1B.20 of the bill, in amended Section 42.253(a), Education Code (committee printing page 12, line 24), strike "42.302." and substitute "42.302; and".

(13) In Section 1B.20 of the bill, in amended Section 42.253(a), Education Code (committee printing page 12, between lines 24 and 25), insert the following:

(7) the amount of each district's local share of the instructional facilities allotment under Subchapter A, Chapter 46.

(14) In Section 1B.20 of the bill, in amended Section 42.253, Education Code (committee printing page 12, between lines 24 and 25), insert the following:

(b) Except as provided by this subsection, the commissioner shall base the determinations under Subsection (a) on the estimates provided to the legislature under Section 42.254, or, if the General Appropriations Act provides estimates for that purpose, on the estimates provided under that Act, for each school district for each school year. The commissioner shall 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 42.254 or the General Appropriations Act, as applicable. A reduction under this subsection may not reduce the district's entitlement



below the amount to which it is entitled at its actual taxable value of property. The commissioner shall base determinations for the instructional facilities allotment on the procedures specified in Subchapter A, Chapter 46.

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

(15) Add the following appropriately numbered section to Part C, Article 1, of the bill (committee printing page 16, between lines 19 and 20), and renumber the subsequent sections of Part C accordingly:

SECTION 1C. Section 46.003, Education Code, is amended by amending Subsections (a) and (h) and adding Subsection (i) to read as follows:

(a) For each year, except as provided by Sections 46.005 and 46.006, a school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort, up to the maximum rate under Subsection (b), to pay the principal of and interest on eligible bonds issued to construct, acquire, renovate, or improve an instructional facility. The total amount of state support provided each biennium to assist with payment of bonds for which a district has not previously received state assistance under this subchapter must equal at least \$300 million or a higher amount provided by appropriation. The amount of state support for a school district is determined by the formula:

$$\text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

where:

"FYA" is the guaranteed facilities yield amount of state funds allocated to the district for the year;

"FYL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is \$35 or a greater amount for any year provided by appropriation;

"ADA" is the greater of the number of students in average daily attendance, as determined under Section 42.005, in the district or 400;

"BTR" is the district's bond tax rate for the current year, which is determined by dividing the amount budgeted by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 42.2521, divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 42.2521.

(h) To receive state assistance under this subchapter, a school district must apply to the commissioner in accordance with rules adopted by the commissioner before issuing bonds that will be paid with state assistance. Until the bonds are fully paid, ~~or~~ the instructional facility is sold, or the school district becomes eligible to receive assistance with payment of the bonds under Subchapter B:

(1) a school district is entitled to continue receiving state assistance under this subchapter without reapplying to the commissioner; and

(2) the guaranteed level of state and local funds per student per cent of tax effort applicable to the bonds may not be reduced below the level provided for the year in which the bonds were issued.

(i) Notwithstanding any other provision of this chapter, the commissioner shall ensure that a school district that becomes eligible for state assistance under Subchapter B with payment of bonds for which the district initially received state assistance under this subchapter continues to receive state assistance under this subchapter as necessary to result in a total guaranteed level of state and local funds per student per cent of tax effort equal to the level provided under this subchapter for the year in which the bonds were issued.

(16) In Section 1C.01 of the bill, strike amended Section 46.033, Education Code (committee printing page 16, lines 22 through 32), and substitute the following:

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

(1) the district made payments on the bonds during the final ~~[2002-2003]~~ school year of the preceding state fiscal biennium;

(2) ~~[or]~~ taxes levied to pay the principal of and interest on the bonds were included in the district's audited debt service collections for that school year; or ~~[and]~~

(3) ~~[(2)]~~ the district received ~~[does not receive]~~ state assistance under Subchapter A for payment of ~~[the]~~ principal and interest on ~~[the]~~ bonds during the final school year of the preceding state fiscal biennium.

(17) In Section 1C.02 of the bill, strike amended Section 46.034(c), Education Code (committee printing page 16, lines 35 through 42), and substitute the following:

(c) If the amount required to pay the principal of and interest on eligible bonds in a school year is less than the amount of payments made by the district on the bonds during the final ~~[2002-2003]~~ school year of the state fiscal biennium preceding the biennium in which the district first receives assistance under this subchapter for the payment of principal of and interest on the bonds or the district's audited debt service collections for that school year, the district may not receive aid in excess of the amount that, when added to the district's local revenue for the school year, equals the amount required to pay the principal of and interest on the bonds.

(18) In Part C, Article 1, of the bill (page 16, between lines 42 and 43), insert the following appropriately numbered section and renumber the subsequent sections of Part C accordingly:

SECTION 1C. \_\_. Section 46.003(a), Education Code, as amended by this Act, applies beginning with the 2007-2008 school year.

The amendment was read.

On motion of Senator Shapiro, Floor Amendment No. 11 to **CSHB 2** was tabled by the following vote: Yeas 21, Nays 10.

Yeas: Armbrister, Averitt, Brimer, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, Wentworth, West, Whitmire, Williams.

Nays: Barrientos, Carona, Ellis, Gallegos, Hinojosa, Lucio, Madla, Shapleigh, Van de Putte, Zaffirini.

Senator Van de Putte offered the following amendment to the bill:

### **Floor Amendment No. 12**

Amend **CSHB 2** in Part C, Article 1 (committee printing, page 16, between lines 42 and 43), by adding the following appropriately numbered sections and renumbering the subsequent sections of Part C, Article 1, accordingly:

SECTION 1C. Subtitle I, Title 2, Education Code, is amended by adding Chapter 47 to read as follows:

#### CHAPTER 47. RESIDENTIAL DEVELOPMENT ASSESSMENT

Sec. 47.001. ASSESSMENT FOR SCHOOL FACILITIES. (a) If the commissioner determines that a residential development is likely to significantly increase student enrollment in a school district, the district is entitled to:

(1) assess an impact fee against the developer in an amount computed using the formula adopted by the commissioner under Subsection (c); or

(2) receive a percentage of the real property acreage within the residential development site, as determined by the commissioner, if the commissioner determines that the increase in student enrollment warrants the construction of a new school facility to accommodate the increased student population.

(b) The commissioner is not required to make a determination under Subsection (a) unless requested to do so by the school district in which the proposed residential development is to be built.

(c) The commissioner shall by rule adopt a formula for determining an appropriate impact fee under Subsection (a)(1). The commissioner must base the formula on the impact of anticipated growth in student enrollment resulting from a planned residential development.

Sec. 47.002. CONDITION OF PLAT APPROVAL OR PERMIT ISSUANCE. A county or municipality may not grant final approval under Chapter 212 or 232, Local Government Code, as applicable, to a plat or replat of a residential development or issue permits required for a residential development unless the developer presents evidence of having:

(1) paid or otherwise satisfied the obligation of any applicable development assessment imposed under Section 47.001(a)(1); or

(2) transferred to the school district real property acreage as required by Section 47.001(a)(2).

Sec. 47.003. USE OF ASSESSMENT. (a) A school district may use a fee collected under Section 47.001(a)(1) only for the construction or expansion of school facilities to accommodate increased student enrollment in the district.

(b) A school district may use land obtained under Section 47.001(a)(2) only as a location for school facilities.

Sec. 47.004. REVENUE AND LAND OF DISTRICT. Any fee or land obtained by a school district under Section 47.001 is in addition to any other revenue or land to which the district is entitled under this code.

Sec. 47.005. RULES. The commissioner shall adopt rules necessary to administer this chapter.

SECTION 1C. \_\_. Chapter 47, Education Code, as added by this Act, applies only to a residential development project that is finally approved by all appropriate governmental authorities on or after September 1, 2005.

The amendment to **CSHB 2** was read and failed of adoption by the following vote: Yeas 8, Nays 23.

Yeas: Barrientos, Ellis, Lucio, Madla, Shapiro, Van de Putte, Wentworth, Zaffirini.

Nays: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapleigh, Staples, West, Whitmire, Williams.

Senator Duncan offered the following amendment to the bill:

### **Floor Amendment No. 13**

Amend **CSHB 2** in Section 1B.05 of the bill as follows:

(1) Between amended Subsections (a) and (b), Section 42.102, Education Code (committee printing, page 5, between lines 50 and 51), insert the following:

(a-1) Notwithstanding any other provision of this section, the initial amount of the cost of education index adjustment is a percent determined by the Legislative Budget Board that would result in a total amount of funds delivered under this section that does not exceed the total amount of funds delivered using the application of the cost of education index as it existed on January 1, 2005.

(a-2) The Legislative Budget Board shall annually increase the initial adjustment percentage determined under Subsection (a) so that the percentage:

(1) increases at the same rate of growth as the implementation of the small and mid-sized district adjustments described by Sections 42.103(c-1) and (d-1); and

(2) does not exceed 71 percent.

(2) Between proposed Subsections (c) and (d), Section 42.102, Education Code (committee printing, page 6, between lines 21 and 22), insert the following:

(c-1) The application of the cost of education index under this section may not result in a greater difference between the highest adjustment and the lowest adjustment than the difference that existed between the highest and lowest adjustments under Chapter 203, Title 19, Texas Administrative Code, as that chapter existed on January 1, 2005. The Legislative Budget Board shall increase the amount of the lowest adjustment to satisfy this subsection.

(3) Between proposed Subsections (d) and (e), Section 42.102, Education Code (committee printing, page 6, between lines 29 and 30), insert the following:

(d-1) All information relating to the computation and adoption of the cost of education index under this section, including underlying data, assumptions, and computations used in the development of the index, is public information.

(4) Strike proposed Subsection (e), Section 42.102, Education Code (committee printing, page 6, lines 30 and 31), and substitute the following:

(e) A school district may appeal a determination of the Legislative Budget Board under Subsection (d) and request a contested case hearing before an administrative law judge of the State Office of Administrative Hearings. A district

must pay the cost of an appeal under this section. An appeal must be limited to the computation and application of data under this section and may not include an appeal of the methodology used to compute the teacher fixed effects index.

(5) In proposed Subsection (f), Section 42.102, Education Code (committee printing, page 6, line 33), strike "Subsection (b-1)" and substitute "Subsections (a-1), (a-2), (b-1),".

The amendment was read.

Senator Ogden offered the following amendment to Floor Amendment No. 13:

#### **Floor Amendment No. 14**

Amend Floor Amendment No. 13 to **CSHB 2** as follows:

(6) In Section 1B.05 of the bill, strike proposed Subsection (b-1), Section 42.102, Education Code (committee printing, page 5, line 58, through page 6, line 16), and substitute the following:

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

(1) for the 2006-2007 school year:

$$\text{CEI} = (\text{TFE} + (7 \times \text{PCEI})) / 8$$

(2) for the 2007-2008 school year:

$$\text{CEI} = ((2 \times \text{TFE}) + (6 \times \text{PCEI})) / 8$$

(3) for the 2008-2009 school year:

$$\text{CEI} = ((2 \times \text{TFE}) + (5 \times \text{PCEI}) + \text{LBBA}) / 8$$

(4) for the 2009-2010 school year:

$$\text{CEI} = ((2 \times \text{TFE}) + (4 \times \text{PCEI}) + (2 \times \text{LBBA})) / 8$$

(5) for the 2010-2011 school year:

$$\text{CEI} = ((2 \times \text{TFE}) + (3 \times \text{PCEI}) + (3 \times \text{LBBA})) / 8;$$

(6) for the 2011-2012 school year:

$$\text{CEI} = ((2 \times \text{TFE}) + (2 \times \text{PCEI}) + (4 \times \text{LBBA})) / 8;$$

(7) for the 2012-2013 school year:

$$\text{CEI} = ((2 \times \text{TFE}) + \text{PCEI} + (5 \times \text{LBBA})) / 8; \text{ and}$$

(8) for the 2013-2014 school year:

$$\text{CEI} = ((2 \times \text{TFE}) + (6 \times \text{LBBA})) / 8$$

where:

"CEI" is the index to be used;

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

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

"LBBA" is the index adopted by the Legislative Budget Board in accordance with Subsection (d) for the state fiscal biennium beginning September 1, 2007;

"LBBA" is the index adopted by the Legislative Budget Board in accordance with Subsection (d) for the state fiscal biennium beginning September 1, 2009; and

"LBBA" is the index adopted by the Legislative Budget Board in accordance with Subsection (d) for the state fiscal biennium beginning September 1, 2011.

(7) In Section 1B.05 of the bill, in proposed Subsection (f), Section 42.102, Education Code (committee printing, page 6, line 32), strike "2012-2013" and substitute "2014-2015".

(8) In Section 1B.05 of the bill, in proposed Subsection (f), Section 42.102, Education Code (committee printing, page 6, line 34), strike "2013" and substitute "2015".

(9) In Section 1B.06 of the bill, strike proposed Subsection (c-1), Section 42.103, Education Code (committee printing, page 6, line 55, through page 7, line 1), and substitute the following:

(c-1) Notwithstanding Subsection (c), the accreditation allotment of a school district that has not more than 1,600 students in average daily attendance is adjusted for the following school years by applying the following formulas, or the appropriate formula under Subsection (d-1) if that results in a greater allotment:

(1) for the 2006-2007 school year:

$$\text{SA} = (1 + ((1,600 - \text{ADA}) \times .00026)) \times \text{AA}$$

(2) for the 2007-2008 school year:

$$\text{SA} = (1 + ((1,600 - \text{ADA}) \times .00028)) \times \text{AA}$$

(3) for the 2008-2009 school year:

$$\text{SA} = (1 + ((1,600 - \text{ADA}) \times .0003)) \times \text{AA}$$

(4) for the 2009-2010 school year:

$$\text{SA} = (1 + ((1,600 - \text{ADA}) \times .00032)) \times \text{AA};$$

(5) for the 2010-2011 school year:

$$\text{SA} = (1 + ((1,600 - \text{ADA}) \times .00034)) \times \text{AA};$$

(6) for the 2011-2012 school year:

$$\text{SA} = (1 + ((1,600 - \text{ADA}) \times .00036)) \times \text{AA}; \text{ and}$$

(7) for the 2012-2013 school year:

$$\text{SA} = (1 + ((1,600 - \text{ADA}) \times .00038)) \times \text{AA}$$

(10) In Section 1B.06 of the bill, in proposed Subsection (c-2), Section 42.103, Education Code (committee printing, page 7, line 3), strike "or 2010-2011" and substitute "2010-2011, 2011-2012, or 2012-2013".

(11) In Section 1B.06 of the bill, strike proposed Subsection (d-1), Section 42.103, Education Code (committee printing, page 7, lines 19-34), and substitute the following:

(d-1) Notwithstanding Subsection (d), the accreditation allotment 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 for the following school years by applying the following formulas, or the formula under Subsection (c) if that results in a greater allotment:

(1) for the 2006-2007 school year:

$$\text{SA} = (1 + ((5,000 - \text{ADA}) \times .000026)) \times \text{AA}$$

(2) for the 2007-2008 school year:

$$\text{SA} = (1 + ((5,000 - \text{ADA}) \times .000028)) \times \text{AA}$$

(3) for the 2008-2009 school year:

$$\text{SA} = (1 + ((5,000 - \text{ADA}) \times .00003)) \times \text{AA}$$

(4) for the 2009-2010 school year:

$$\text{SA} = (1 + ((5,000 - \text{ADA}) \times .000032)) \times \text{AA};$$

(5) for the 2010-2011 school year:

$$\underline{SA = (1 + ((5,000 - ADA) X .000034)) X AA};$$

(6) for the 2011-2012 school year:

$$\underline{SA = (1 + ((5,000 - ADA) X .000036)) X AA}; \text{ and}$$

(7) for the 2012-2013 school year:

$$\underline{SA = (1 + ((5,000 - ADA) X .000038)) X AA}$$

(12) In Section 1B.06 of the bill, in proposed Subsection (f), Section 42.103, Education Code (committee printing, page 7, line 36), strike "2011-2012" and substitute "2013-2014".

(13) In Section 1B.06 of the bill, in proposed Subsection (f), Section 42.103, Education Code (committee printing, page 7, line 37), strike "2012" and substitute "2014".

(14) In Section 1B.23 of the bill, strike proposed Subsection (c), Section 42.302, Education Code (committee printing, page 14, line 65, through page 15, line 13), and substitute the following:

(c) The percentile in wealth per student described by Subsection (b) for purposes of determining the dollar amount guaranteed level of state and local funds per student per cent of tax effort ("EGL") applies beginning with the 2013-2014 school year. For the 2006-2007 through 2012-2013 school years, EGL is determined as follows:

(1) for the 2006-2007 school year, EGL is determined using the 91st percentile in wealth per student;

(2) for the 2007-2008 school year, EGL is determined using the 92nd percentile in wealth per student;

(3) for the 2008-2009 school year, EGL is determined using the 93rd percentile in wealth per student;

(4) for the 2009-2010 school year, EGL is determined using the 94th percentile in wealth per student;

(5) for the 2010-2011 school year, EGL is determined using the 95th percentile in wealth per student;

(6) for the 2011-2012 school year, EGL is determined using the 96th percentile in wealth per student; and

(7) for the 2012-2013 school year, EGL is determined using the 97th percentile in wealth per student.

(15) In Section 1B.23 of the bill, in proposed Subsection (d), Section 42.302, Education Code (committee printing, page 15, line 15), strike "2012" and substitute "2013".

The amendment was read.

Senator Ogden temporarily withdrew Floor Amendment No. 14.

Question recurring on the adoption of Floor Amendment No. 13 to **CSHB 2**, the amendment was adopted by the following vote: Yeas 16, Nays 15.

Yeas: Armbrister, Averitt, Deuell, Duncan, Eltife, Estes, Fraser, Hinojosa, Lucio, Madla, Ogden, Seliger, Shapiro, Shapleigh, Staples, Zaffirini.

Nays: Barrientos, Brimer, Carona, Ellis, Gallegos, Harris, Jackson, Janek, Lindsay, Nelson, Van de Putte, Wentworth, West, Whitmire, Williams.

Senator Ogden again offered the following amendment to the bill:

**Floor Amendment No. 14**

Amend **CSHB 2** as follows:

(6) In Section 1B.05 of the bill, strike proposed Subsection (b-1), Section 42.102, Education Code (committee printing, page 5, line 58, through page 6, line 16), and substitute the following:

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

(1) for the 2006-2007 school year:

$$\text{CEI} = (\text{TFE} + (7 \times \text{PCEI})) / 8$$

(2) for the 2007-2008 school year:

$$\text{CEI} = ((2 \times \text{TFE}) + (6 \times \text{PCEI})) / 8$$

(3) for the 2008-2009 school year:

$$\text{CEI} = ((2 \times \text{TFE}) + (5 \times \text{PCEI}) + \text{LBBA}) / 8$$

(4) for the 2009-2010 school year:

$$\text{CEI} = ((2 \times \text{TFE}) + (4 \times \text{PCEI}) + (2 \times \text{LBBA})) / 8$$

(5) for the 2010-2011 school year:

$$\text{CEI} = ((2 \times \text{TFE}) + (3 \times \text{PCEI}) + (3 \times \text{LBBB})) / 8;$$

(6) for the 2011-2012 school year:

$$\text{CEI} = ((2 \times \text{TFE}) + (2 \times \text{PCEI}) + (4 \times \text{LBBB})) / 8;$$

(7) for the 2012-2013 school year:

$$\text{CEI} = ((2 \times \text{TFE}) + \text{PCEI} + (5 \times \text{LBBC})) / 8; \text{ and}$$

(8) for the 2013-2014 school year:

$$\text{CEI} = ((2 \times \text{TFE}) + (6 \times \text{LBBC})) / 8$$

where:

"CEI" is the index to be used;

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

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

"LBBA" is the index adopted by the Legislative Budget Board in accordance with Subsection (d) for the state fiscal biennium beginning September 1, 2007;

"LBBB" is the index adopted by the Legislative Budget Board in accordance with Subsection (d) for the state fiscal biennium beginning September 1, 2009; and

"LBBC" is the index adopted by the Legislative Budget Board in accordance with Subsection (d) for the state fiscal biennium beginning September 1, 2011.

(7) In Section 1B.05 of the bill, in proposed Subsection (f), Section 42.102, Education Code (committee printing, page 6, line 32), strike "2012-2013" and substitute "2014-2015".

(8) In Section 1B.05 of the bill, in proposed Subsection (f), Section 42.102, Education Code (committee printing, page 6, line 34), strike "2013" and substitute "2015".

(9) In Section 1B.06 of the bill, strike proposed Subsection (c-1), Section 42.103, Education Code (committee printing, page 6, line 55, through page 7, line 1), and substitute the following:



(c-1) Notwithstanding Subsection (c), the accreditation allotment of a school district that has not more than 1,600 students in average daily attendance is adjusted for the following school years by applying the following formulas, or the appropriate formula under Subsection (d-1) if that results in a greater allotment:

- (1) for the 2006-2007 school year:  
$$\text{SA} = (1 + ((1,600 - \text{ADA}) \times .00026)) \times \text{AA}$$
- (2) for the 2007-2008 school year:  
$$\text{SA} = (1 + ((1,600 - \text{ADA}) \times .00028)) \times \text{AA}$$
- (3) for the 2008-2009 school year:  
$$\text{SA} = (1 + ((1,600 - \text{ADA}) \times .0003)) \times \text{AA}$$
- (4) for the 2009-2010 school year:  
$$\text{SA} = (1 + ((1,600 - \text{ADA}) \times .00032)) \times \text{AA};$$
- (5) for the 2010-2011 school year:  
$$\text{SA} = (1 + ((1,600 - \text{ADA}) \times .00034)) \times \text{AA};$$
- (6) for the 2011-2012 school year:  
$$\text{SA} = (1 + ((1,600 - \text{ADA}) \times .00036)) \times \text{AA};$$
 and
- (7) for the 2012-2013 school year:  
$$\text{SA} = (1 + ((1,600 - \text{ADA}) \times .00038)) \times \text{AA}$$

(10) In Section 1B.06 of the bill, in proposed Subsection (c-2), Section 42.103, Education Code (committee printing, page 7, line 3), strike "or 2010-2011" and substitute "2010-2011, 2011-2012, or 2012-2013".

(11) In Section 1B.06 of the bill, strike proposed Subsection (d-1), Section 42.103, Education Code (committee printing, page 7, lines 19-34), and substitute the following:

(d-1) Notwithstanding Subsection (d), the accreditation allotment 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 for the following school years by applying the following formulas, or the formula under Subsection (c) if that results in a greater allotment:

- (1) for the 2006-2007 school year:  
$$\text{SA} = (1 + ((5,000 - \text{ADA}) \times .000026)) \times \text{AA}$$
- (2) for the 2007-2008 school year:  
$$\text{SA} = (1 + ((5,000 - \text{ADA}) \times .000028)) \times \text{AA}$$
- (3) for the 2008-2009 school year:  
$$\text{SA} = (1 + ((5,000 - \text{ADA}) \times .00003)) \times \text{AA}$$
- (4) for the 2009-2010 school year:  
$$\text{SA} = (1 + ((5,000 - \text{ADA}) \times .000032)) \times \text{AA};$$
- (5) for the 2010-2011 school year:  
$$\text{SA} = (1 + ((5,000 - \text{ADA}) \times .000034)) \times \text{AA};$$
- (6) for the 2011-2012 school year:  
$$\text{SA} = (1 + ((5,000 - \text{ADA}) \times .000036)) \times \text{AA};$$
 and
- (7) for the 2012-2013 school year:  
$$\text{SA} = (1 + ((5,000 - \text{ADA}) \times .000038)) \times \text{AA}$$

(12) In Section 1B.06 of the bill, in proposed Subsection (f), Section 42.103, Education Code (committee printing, page 7, line 36), strike "2011-2012" and substitute "2013-2014".

(13) In Section 1B.06 of the bill, in proposed Subsection (f), Section 42.103, Education Code (committee printing, page 7, line 37), strike "2012" and substitute "2014".

(14) In Section 1B.23 of the bill, strike proposed Subsection (c), Section 42.302, Education Code (committee printing, page 14, line 65, through page 15, line 13), and substitute the following:

(c) The percentile in wealth per student described by Subsection (b) for purposes of determining the dollar amount guaranteed level of state and local funds per student per cent of tax effort ("EGL") applies beginning with the 2013-2014 school year. For the 2006-2007 through 2012-2013 school years, EGL is determined as follows:

(1) for the 2006-2007 school year, EGL is determined using the 91st percentile in wealth per student;

(2) for the 2007-2008 school year, EGL is determined using the 92nd percentile in wealth per student;

(3) for the 2008-2009 school year, EGL is determined using the 93rd percentile in wealth per student;

(4) for the 2009-2010 school year, EGL is determined using the 94th percentile in wealth per student;

(5) for the 2010-2011 school year, EGL is determined using the 95th percentile in wealth per student;

(6) for the 2011-2012 school year, EGL is determined using the 96th percentile in wealth per student; and

(7) for the 2012-2013 school year, EGL is determined using the 97th percentile in wealth per student.

(15) In Section 1B.23 of the bill, in proposed Subsection (d), Section 42.302, Education Code (committee printing, page 15, line 15), strike "2012" and substitute "2013".

The amendment was read.

Senator Staples offered the following amendment to Floor Amendment No. 14:

#### **Floor Amendment No. 15**

Amend Floor Amendment No. 14 to **CSHB 2** with the following:

On page 4, line 28 strike "2013-2014" and substitute "2014-2015". On page 4, line 29 strike "2012-2013" and substitute "2013-2014".

On page 5 of the amendment:

line 3, strike "91st" and substitute "92nd"

line 9, strike "94th" and substitute "93rd"

line 11, strike "95th" and substitute "94th"

line 13, strike "96th" and substitute "95th"

line 15, strike "97th" and substitute "96th"

After line 15 insert the following new subdivision:

"(8) for the 2013-14 school year, EGL is determined using the 97th percentile in wealth per student."

The amendment to Floor Amendment No. 14 to **CSHB 2** was read and was adopted by the following vote: Yeas 25, Nays 6.

Yeas: Armbrister, Averitt, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Hinojosa, Janek, Lindsay, Lucio, Madla, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Barrientos, Brimer, Fraser, Harris, Jackson, Nelson.

Question recurring on the adoption of Floor Amendment No. 14 to **CSHB 2**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 14 as amended except as follows:

Nays: Ellis.

Senator Duncan offered the following amendment to the bill:

### **Floor Amendment No. 16**

Amend **CSHB 2**, SECTION 1B.05 by inserting the following language where appropriate and renumbering appropriately:

( ) Beginning with the 2005-06 school year, the amount of .062 (6.2 percent) is added to the adjustment provided for under Subsections (b), (b-1), (c) and (d) for any school district that pays taxes under 26 U.S.C. Section 3111(a), and its subsequent amendments, for employees covered by the Social Security retirement program, if the district covers all employees and did so prior to January 1, 2005.

( ) Beginning with the 2005-06 school year, the amount of .031 (3.1 percent) is added to the adjustment provided for under Subsections (b), (b-1), and (c) for any school district that pays taxes under 26 U.S.C. Section 3111(a), and its subsequent amendments, for employees covered by the Social Security retirement program, if the district covers at least 25 percent of its employees and did so prior to January 1, 2005.

( ) The commissioner may adopt rules necessary for the implementation of this section.

The amendment was read.

Senator Duncan withdrew Floor Amendment No. 16.

Senator Van de Putte offered the following amendment to the bill:

### **Floor Amendment No. 17**

Amend **CSHB 2** in Section 1B.10 of the bill, in added Section 42.153(a-1), Education Code (committee printing, page 9, lines 53 and 54), by striking "at which the student entered the program" and substituting "to which the student is assigned".

VAN DE PUTTE  
HINOJOSA  
ZAFFIRINI

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 17.

Senator Van de Putte offered the following amendment to the bill:

### Floor Amendment No. 18

Amend **CSHB 2** between SECTION 1B.13 and SECTION 1B.14 of the bill (committee printing, page 10, between lines 37 and 38) by inserting the following appropriately numbered SECTION and renumbering the subsequent SECTIONS of Part B, Article 1, accordingly:

SECTION 1B.\_\_. Section 42.158, Education Code, is amended by amending Subsections (b), (d), and (g) and adding Subsection (b-1) to read as follows:

(b) For the first school year in which students attend a new instructional facility, a school district other than a fast growth school district is entitled to an allotment of \$250 for each student in average daily attendance at the facility. For the second and third school years [year] in which students attend that instructional facility, the [a school] district is entitled to an allotment of \$250 for each additional student in average daily attendance at the facility.

(b-1) For the first school year in which students attend a new instructional facility, a fast growth school district is entitled to an allotment of \$500 for each student in average daily attendance at the facility. For the second and third school years in which students attend that instructional facility, the district is entitled to an allotment of \$500 for each additional student in average daily attendance at the facility.

(d) The amount appropriated for allotments under this section may not exceed \$50 [\$25] million in a school year. If the total amount of allotments to which districts are entitled under this section for a school year exceeds the amount appropriated for allotments under this section, the commissioner shall reduce each district's allotment under this section in the manner provided by Section 42.253(h).

(g) In this section:

(1) "Fast growth school district" means a school district that during the preceding five school years has experienced an increase in enrollment of:

(A) greater than 10 percent; or

(B) more than 3,500 students.

(2) "Instructional ["instructional] facility" has the meaning assigned by Section 46.001.

VAN DE PUTTE  
LUCIO  
NELSON

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 18.

Senator Janek offered the following amendment to the bill:

### Floor Amendment No. 19

Amend **CSHB 2** as follows:

(1) In the introductory language of Section 1B.20 of the bill (committee printing, page 12, line 13), strike "(e-2)" and substitute "(c-1), (e-2)".

(2) In Section 1B.20 of the bill, between amended Subsection (a) and proposed Subsection (e-2), Section 42.253, Education Code (committee printing, page 12, between lines 24 and 25), insert the following:

(c-1) Notwithstanding any other provision of this chapter, with the approval of the commissioner, a school district in which the number of students in average daily attendance increases as a result of enrolling students pursuant to an agreement to provide education services in cooperation with a public charter district is entitled to receive state revenue for the additional students in an amount not less than the district's total state and local revenue per student, including revenue from accreditation allotments and an enrichment program under Subchapter F, calculated on the basis of the district's average daily attendance prior to the enrollment of the additional students.

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 19.

### (President in Chair)

Senator Shapleigh offered the following amendment to the bill:

#### Floor Amendment No. 20

Amend **CSHB 2** in Part C, Article 1, of the bill (committee printing, page 16, between lines 19 and 20), by inserting the following appropriately numbered section:

SECTION 1C. \_\_. Section 46.006, Education Code, is amended by adding Subsection (c-1) and amending Subsection (d) to read as follows:

(c-1) A district's wealth per student is reduced by 25 percent for purposes of this section if the district has had significant student enrollment growth that, as determined by the commissioner, is substantially related to the enrollment of children of military personnel transferred to a military base near the district following the closure or realignment of another military base under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687). The reduction is in addition to any reduction under Subsection (a), (b), or (c) and is computed before the district's wealth per student is reduced under those subsections, if applicable.

(d) The commissioner shall adjust the rankings after making the reductions in wealth per student required by Subsections (a), (b), ~~and~~ (c), and (c-1).

The amendment to **CSHB 2** was read and failed of adoption by the following vote: Yeas 15, Nays 16.

Yeas: Averitt, Carona, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Hinojosa, Lucio, Madla, Shapleigh, Van de Putte, West, Whitmire.

Nays: Armbrister, Barrientos, Brimer, Deuell, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, Wentworth, Williams, Zaffirini.

### VOTE RECONSIDERED

On motion of Senator Barrientos and by unanimous consent, the vote by which Floor Amendment No. 20 failed of adoption was reconsidered.

Question — Shall Floor Amendment No. 20 to **CSHB 2** be adopted?

The amendment to **CSHB 2** was adopted by the following vote: Yeas 18, Nays 13.

Yeas: Armbrister, Averitt, Barrientos, Carona, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Hinojosa, Lindsay, Lucio, Madla, Shapleigh, Van de Putte, West, Whitmire.

Nays: Brimer, Deuell, Harris, Jackson, Janek, Nelson, Ogden, Seliger, Shapiro, Staples, Wentworth, Williams, Zaffirini.

Senator Duncan offered the following amendment to the bill:

### **Floor Amendment No. 21**

Amend **CSHB 2**, SECTION 1B.05 by inserting the following language where appropriate and renumbering appropriately:

Beginning with the 2007-08 school year, the amount of .062 (6.2 percent) is added to the adjustment provided for under Subsections (b), (b-1), (c) and (d) for any school district that pays taxes under 26 U.S.C. Section 3111(a), and its subsequent amendments, for employees covered by the Social Security retirement program, if the district covers all employees and did so prior to January 1, 2005.

Beginning with the 2007-08 school year, the amount of .031 (3.1 percent) is added to the adjustment provided for under Subsections (b), (b-1), and (c) for any school district that pays taxes under 26 U.S.C. Section 3111(a), and its subsequent amendments, for employees covered by the Social Security retirement program, if the district covers at least 25 percent of its employees and did so prior to January 1, 2005.

The commissioner may adopt rules necessary for the implementation of this section.

The amendment to **CSHB 2** was read and was adopted by the following vote: Yeas 31, Nays 0.

Senator Staples offered the following amendment to the bill:

### **Floor Amendment No. 22**

Amend **CSHB 2** in Part C, Article 1, of the bill (committee printing, page 16, between lines 19 and 20), by inserting the following new section, appropriately numbered, and renumbering the subsequent sections of Part C, Article 1, accordingly:

SECTION 1C.\_\_\_\_. Section 46.008, Education Code, is amended to read as follows:

Sec. 46.008. STANDARDS. (a) The commissioner shall establish standards for adequacy of school facilities. The standards must include requirements related to space, educational adequacy, and construction quality. All new facilities constructed after September 1, 1998, must meet the standards to be eligible to be financed with state or local tax funds.

(b) To be eligible to be financed with state or local tax funds, any portable, modular building capable of being relocated that is purchased or leased after September 1, 2005, for use as a school facility, regardless of whether the building is an industrialized building as defined by Section 1202.003, Occupations Code, must be

inspected as provided by Subchapter E, Chapter 1202, Occupations Code, to ensure compliance with the mandatory building codes or approved designs, plans, and specifications.

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 22.

Senator Lucio offered the following amendment to the bill:

**Floor Amendment No. 23**

Amend **CSHB 2** in Part C, Article 1, of the bill (committee printing, page 16, between lines 19 and 20), by inserting the following new section, appropriately numbered, and renumbering the subsequent sections of Part C, Article 1, accordingly:

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

Sec. 46.014. STUDY REGARDING INSTRUCTIONAL FACILITIES. (a) The comptroller in cooperation with the agency shall study:

(1) existing instructional facilities in this state; and

(2) the projected need for instructional facilities in the next 10 to 20 years.

(b) The study of instructional facilities must include an examination of the following objectives and any other objectives determined appropriate by the comptroller and the agency:

(1) a determination as to which of the following needs of school districts in this state relating to instructional facilities are the most pressing:

(A) the need for new instructional facilities;

(B) the need for repairs to existing instructional facilities;

(C) the need for renovations of existing instructional facilities; and

(D) other needs relating to instructional facilities;

(2) an estimate of the total cost of necessary construction, repair, or renovation of instructional facilities in the next 10 to 20 years;

(3) a determination of the number of school districts and campuses that have student populations that exceed the maximum capacity of the districts' or campuses' classrooms, cafeterias, or gymnasiums, including if appropriate a determination of:

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

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

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

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

(c) In projecting the need for instructional facilities in the next 10 to 20 years, the study must determine the facilities that will need to be constructed, repaired, or renovated in this state. The study may include:

(1) projections as to the date new instructional facilities will be needed or the date existing instructional facilities will need to be repaired or renovated;

(2) information relating to the date of construction or age of existing instructional facilities; and

(3) information relating to the dates of the most recent major renovations of existing instructional facilities.

(d) The comptroller and the agency shall determine the appropriate methodology for use in conducting the study required by this section.

(e) Not later than December 1, 2006, the comptroller and the agency shall submit to the legislature a report based on the study required by this section. This section expires January 15, 2007.

The amendment to **CSHB 2** was read and was adopted by the following vote: Yeas 23, Nays 8.

Yeas: Armbrister, Averitt, Barrientos, Carona, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Lindsay, Lucio, Madla, Ogden, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Nays: Brimer, Deuell, Janek, Nelson, Seliger, Shapiro, Staples, Williams.

Senator Madla offered the following amendment to the bill:

#### **Floor Amendment No. 24**

Amend **CSHB 2** in Part A, Article 1, of the bill by inserting the following new section, appropriately numbered, and renumbering the subsequent sections of Part A, Article 1, accordingly:

SECTION 1A. \_\_\_\_\_. Section 403.302, Government Code, is amended by adding Subsection (c-1) to read as follows:

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

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

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

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

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.



All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 24.

Senator Lucio offered the following amendment to the bill:

**Floor Amendment No. 25**

Amend **CSHB 2** as follows:

(1) In ARTICLE 2 of the bill, add the following appropriately lettered PART and reletter subsequent PARTS of ARTICLE 2 accordingly:

PART \_\_. SCHOOL DISTRICT OPERATIONS

SECTION 2\_\_\_.01. Section 7.056(e), Education Code, is amended to read as follows:

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

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

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

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

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

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

(C) extracurricular activities under Section 33.081;

(D) health and safety under Chapter 38;

(E) purchasing under Subchapter B, Chapter 44;

(F) elementary school class size limits, except as provided by Section 25.112;

(G) removal of a disruptive student from the classroom under Subchapter A, Chapter 37;

(H) at-risk programs under Subchapter C, Chapter 29;

(I) prekindergarten programs under Subchapter E, Chapter 29;

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

(K) special education programs under Subchapter A, Chapter 29; ~~or~~

(L) bilingual education programs under Subchapter B, Chapter 29; or

(M) the requirements for the first and last day of instruction under Section 25.0811, except as provided by that section.

SECTION 2\_\_\_.02. The heading to Section 25.0811, Education Code, is amended to read as follows:

Sec. 25.0811. FIRST AND LAST DAY OF INSTRUCTION.

SECTION 2\_\_\_.03. Section 25.0811(a), Education Code, is amended to read as follows:

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

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

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

SECTION 2\_\_ .04. This part applies beginning with the 2006-2007 school year.

(2) In SECTION 6.01 of the bill (Committee printing, page 134, line 10), between "6.01." and "Effective", insert "(a)".

(3) In SECTION 6.01 of the bill (Committee printing, page 134, between lines 21 and 22), insert the following:

(b) Effective September 1, 2006, Sections 25.0811(b) and (c), Education Code, are repealed.

LUCIO  
WENTWORTH

The amendment to **CSHB 2** was read and was adopted by the following vote: Yeas 20, Nays 11.

Yeas: Armbrister, Brimer, Carona, Ellis, Eltife, Fraser, Gallegos, Harris, Hinojosa, Janek, Lucio, Madla, Nelson, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Averitt, Barrientos, Deuell, Duncan, Estes, Jackson, Lindsay, Ogden, Seliger, Shapiro, Staples.

Question — Shall **CSHB 2** as amended be passed to third reading?

**AT EASE**

The President at 6:41 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

### **IN LEGISLATIVE SESSION**

The President at 7:05 p.m. called the Senate to order as In Legislative Session.

Question — Shall **CSHB 2** as amended be passed to third reading?

Senator Lucio offered the following amendment to the bill:

#### **Floor Amendment No. 26**

Amend **CSHB 2** in Part A, Article 1, of the bill by inserting the following new section, appropriately numbered, and renumbering the subsequent sections of Part A, Article 1, accordingly:

SECTION 1A.\_\_\_\_. Subchapter B, Chapter 7, Education Code, is amended by adding Section 7.032 to read as follows:

Sec. 7.032. STUDY OF UNFUNDED STATE EDUCATIONAL MANDATES.

(a) For purposes of this section:

(1) "State educational mandate" means a provision of a state statute or rule that requires:

(A) school district action to implement the provision; and

(B) an expenditure by a school district that would not have been required in the absence of the provision.

(2) "Unfunded state educational mandate" means a state educational mandate for which the legislature has not appropriated funds estimated to be sufficient to meet the state's share of financing the expenditure.

(b) The agency shall conduct a study of unfunded state educational mandates. The study must:

(1) identify existing unfunded state educational mandates, including any mandates created by a statute enacted by the 79th Legislature, Regular Session, 2005, or a rule adopted under such a statute; and

(2) estimate the cost to school districts of complying with each unfunded state educational mandate the agency identifies.

(c) Each school district shall cooperate with the agency by providing information relating to the district's cost of implementing an unfunded state educational mandate. At the commissioner's request, the Legislative Budget Board, state auditor, comptroller, and other state officers and agencies shall assist the agency in conducting the study and analyzing information obtained from school districts.

(d) The agency shall:

(1) prepare a report containing the results of the study conducted under this section; and

(2) deliver the report to the governor, lieutenant governor, and each member of the legislature not later than December 15, 2006.

(e) This section expires January 15, 2007.

The amendment to **CSHB 2** was read and failed of adoption by the following vote: Yeas 7, Nays 20.

Yeas: Duncan, Ellis, Lucio, Madla, Shapleigh, West, Zaffirini.

Nays: Averitt, Barrientos, Brimer, Carona, Deuell, Eltife, Estes, Fraser, Gallegos, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, Wentworth, Williams.

Absent: Armbrister, Hinojosa, Van de Putte, Whitmire.

Senator Barrientos offered the following amendment to the bill:

### **Floor Amendment No. 27**

Amend **CSHB 2** as follows:

(1) On page 17, line 55 through page 19, line 35, delete proposed Sections 2A.04, 2A.05, 2A.06, 2A.07, 2A.08, and 2A.09.

(2) On page 25, lines 59-68, delete proposed Section 2A.18.

(3) On page 26, lines 4-7, delete proposed Section 2A.20.

The amendment was read.

Senator Barrientos offered the following amendment to Floor Amendment No. 27:

### **Floor Amendment No. 28**

Amend Floor Amendment No. 27 to **CSHB 2** by deleting proposed Subsection (3) of the amendment which would have deleted proposed Section 2A.20.

The amendment to Floor Amendment No. 27 to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 28.

Question — Shall Floor Amendment No. 27 as amended to **CSHB 2** be adopted?

On motion of Senator Williams, Floor Amendment No. 27 to **CSHB 2** was tabled by the following vote: Yeas 18, Nays 13.

Yeas: Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, Wentworth, Williams.

Nays: Armbrister, Averitt, Barrientos, Ellis, Gallegos, Hinojosa, Lucio, Madla, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

Senator Shapleigh offered the following amendment to the bill:

### **Floor Amendment No. 29**

Amend **CSHB 2** as follows:

(1) In the introductory language of Section 2A.10 of the bill (committee printing, page 19, line 38), strike "(a-1), (a-2),".

(2) In Section 2A.10 of the bill, in amended Subsection (a), Section 21.402, Education Code (committee printing, page 19, line 39), strike "(a-1), (a-2),".

(3) In Section 2A.10 of the bill, strike proposed Subsections (a-1) and (a-2), Section 21.402, Education Code (committee printing, page 19, lines 60-66).

(4) Strike Sections 2A.19 and 2A.20 of the bill (committee printing, page 25, line 69, through page 26, line 7).

The amendment was read.

Senator Shapiro moved to table Floor Amendment No. 29 to **CSHB 2**.

Senator Shapiro withdrew the motion to table Floor Amendment No. 29.

Senator Shapleigh temporarily withdrew Floor Amendment No. 29.

Senator Averitt offered the following amendment to the bill:

### **Floor Amendment No. 30**

Amend **CSHB 2** as follows:

(1) In Section 2A.10 of the bill, in added Section 21.402(d-1), Education Code (committee printing, page 20, line 55), strike "not more than \$1,000" and substitute "a portion".

(2) In Section 2A.13 of the bill, strike added Section 22.007(c), Education Code (committee printing, page 22, lines 47-53), and substitute the following:

(c) A school district employee entitled to a wage increase under this section may elect to receive a portion of the person's annual wages as health care supplementation as provided by Chapter 1580, Insurance Code.

(3) In Section 2I.01 of the bill, at the end of reenacted and amended Section 1580.051(a), Insurance Code (committee printing, page 69, line 34), insert the following:

The amount designated under this section may not exceed the amount permitted under applicable federal law.

(4) In Section 5A.02 of the bill, strike amended Section 822.201(c)(10), Government Code (committee printing, page 129, lines 26-28), and substitute the following:

(10) compensation designated [~~contributions to a health reimbursement arrangement account received~~] by an employee as health care supplementation under Chapter 1580 [Article 3.50-8], Insurance Code, subject to the following limits:

(A) \$1,000, for an employee entitled to the minimum salary under Section 21.402, Education Code;

(B) \$1,000, for a full-time support staff employee entitled to a wage increase under Section 22.007(a), Education Code; and

(C) \$500, for a part-time support staff employee entitled to a wage increase under Section 22.007(b), Education Code; and

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 30.

Senator Shapleigh offered the following amendment to the bill:

#### **Floor Amendment No. 31**

Amend **CSHB 2** in Section 2A.11 of the bill, in added Section 21.458, Education Code (page 21, between lines 26 and 27), by inserting the following appropriately lettered subsection:

( ) If insufficient funds are appropriated to the agency for purposes of this section, in providing funding under this section the commissioner shall give preference to a school district:

(1) that has an unsatisfactory teacher retention rate;

(2) that has an unsatisfactory high school graduation rate;

(3) that has an unsatisfactory dropout rate; or

(4) in which a high percentage of district students perform unsatisfactorily on assessment instruments administered under Section 39.023.

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 31.

Senator Shapleigh again offered the following amendment to the bill:

#### **Floor Amendment No. 29**

Amend **CSHB 2** as follows:

(1) In the introductory language of Section 2A.10 of the bill (committee printing, page 19, line 38), strike "(a-1), (a-2),".

(2) In Section 2A.10 of the bill, in amended Subsection (a), Section 21.402, Education Code (committee printing, page 19, line 39), strike "(a-1), (a-2),".

(3) In Section 2A.10 of the bill, strike proposed Subsections (a-1) and (a-2), Section 21.402, Education Code (committee printing, page 19, lines 60-66).

(4) Strike Sections 2A.19 and 2A.20 of the bill (committee printing, page 25, line 69, through page 26, line 7).

The amendment was again read.

On motion of Senator Shapiro, Floor Amendment No. 29 to **CSHB 2** was tabled by the following vote: Yeas 18, Nays 13.

Yeas: Armbrister, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, Williams.

Nays: Averitt, Barrientos, Ellis, Gallegos, Hinojosa, Lucio, Madla, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Senator Shapleigh offered the following amendment to the bill:

### **Floor Amendment No. 32**

Amend **CSHB 2** in Section 2A.11 of the bill, in added Section 21.458, Education Code (page 21, between lines 26 and 27), by inserting the following appropriately lettered subsection:

( ) The commissioner shall annually evaluate the effectiveness of school district mentor programs established under this section. The evaluation must consider:

(1) the performance of students in districts that assign mentor teachers under this section on assessment instruments administered under Section 39.023;

(2) the districts' high school graduation rates; and

(3) the districts' teacher attrition rates.

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 32.

### **Floor Amendment No. 33 was not offered.**

Senator West offered the following amendment to the bill:

### **Floor Amendment No. 34**

Amend **CSHB 2** as follows:

(1) In SECTION 2A.12 of the bill, in added Section 21.651(e), Education Code (committee printing, page 21, line 60), strike "and".

(2) In SECTION 2A.12 of the bill, in added Section 21.651(e), Education Code (committee printing, page 21, between lines 60 and 61), insert the following:

(2) teachers who serve as mentors in accordance with Section 21.458; and

(3) In SECTION 2A.12 of the bill, in added Section 21.651(e), Education Code (committee printing, page 21, line 61), strike "(2)" and substitute "(3)".

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 34.

Senator West offered the following amendment to the bill:

### **Floor Amendment No. 35**

Amend **CSHB 2** in SECTION 2A.12 of the bill, in added Section 21.652(c), Education Code (committee printing, page 22, lines 16-18), by striking "A local incentive plan may also consider other indicators of employee performance, such as teacher evaluations conducted by principals or parents."

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 35.

Senator Shapleigh offered the following amendment to the bill:

### **Floor Amendment No. 36**

Amend **CSHB 2** as follows:

(1) On page 39, line 7, after "39.034" insert ", 39.0341".

(2) On page 39, insert the following after line 27:

"Sec. 39.0341. STUDY OF METHOD OF MEASURING INDIVIDUAL STUDENT GROWTH IN ACHIEVEMENT. (a) The commissioner shall conduct a comprehensive study of methods of measuring individual student growth in achievement on assessment instruments.

(b) The study shall include a determination of the feasibility of implementing a method of measuring individual student growth in achievement as described in Section 39.034(a), an analysis of the anticipated effectiveness of the method as a reliable measure of student achievement and a comparison of methods adopted by other states to measure individual student growth in achievement on assessment instruments.

(c) The commissioner shall report the results of the study to the legislature not later than December 1, 2005. This subsection expires January 1, 2006."

(3) On page 17, line 20, insert "Subsection (a-1) and" after the word "adding".

(4) On page 17, lines 32-33, after "39.034" strike ", and any other factor considered appropriate by the board".

(5) On page 17, strike lines 34-35 and substitute the following:

"(4) any other factor considered appropriate by the board.

(a-1) The information described under subsection (a)(3) shall not be used for purposes of this section prior to September 1, 2006, and its use is contingent upon fulfillment of all the requirements of Section 39.0341."

(6) On page 17, line 54, insert the following after "39.030":  
"This subsection shall not be implemented prior to September 1, 2006, and is contingent upon fulfillment of all the requirements of Section 39.0341."

(7) On page 22, insert the following between lines 36 and 37:

"Sec. 21.655. IMPLEMENTATION. This subchapter shall not be implemented prior to September 1, 2006, and is contingent upon fulfillment of all the requirements of Section 39.0341."

(8) On page 39, strike lines 53-55 and substitute the following:

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

(9) On page 40, insert the following between lines 62 and 63:

"(h) The indicator under Subsection (b)(8) shall not be used for purposes of this section prior to September 1, 2006, and its use is contingent upon fulfillment of all the requirements of Section 39.0341."

The amendment was read.

On motion of Senator Shapiro, Floor Amendment No. 36 to **CSHB 2** was tabled by the following vote: Yeas 21, Nays 10.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, Wentworth, West, Williams.

Nays: Barrientos, Ellis, Gallegos, Hinojosa, Lucio, Madla, Shapleigh, Van de Putte, Whitmire, Zaffirini.

Senator Van de Putte offered the following amendment to the bill:

#### **Floor Amendment No. 37**

Amend **CSHB 2** as follows:

(1) In Section 2A.12 of the bill, in added Section 21.651(a), Education Code (committee printing, page 21, lines 34-35), strike "whose students demonstrate successful annual individual student growth in achievement" and substitute "based on high student achievement".

(2) In Section 2A.12 of the bill, in added Section 21.651(c), Education Code (committee printing, page 21, line 48), strike "Except as provided by Subsections (d) and (e), each" and substitute "Each".

(3) In Section 2A.12 of the bill, in added Section 21.651(c), Education Code, between "subchapter" and the period (committee printing, page 21, line 51), insert "or stipends in accordance with Subsection (e)".

(4) In Section 2A.12 of the bill, in added Section 21.651, Education Code (committee printing, page 21, lines 52 through 54), strike Subsection (d).

(5) In Section 2A.12 of the bill, in added Section 21.651(e), Education Code (committee printing, page 21, lines 55 and 56), strike "an amount not to exceed 50 percent of the".

(6) In Section 2A.12 of the bill, in added Section 21.651(e), Education Code (committee printing, page 21, line 60), strike "and".

(7) In Section 2A.12 of the bill, in added Section 21.651(e), Education Code (committee printing, page 21, line 64), strike the period and substitute "; and".

(8) In Section 2A.12 of the bill, in added Section 21.651(e), Education Code (committee printing, page 21, between lines 64 and 65), insert the following:

(3) teachers who serve as mentors under Section 21.458.

(9) In Section 2A.12 of the bill, in added Section 21.652(a), Education Code (committee printing, page 22, lines 5 and 6), strike "individual student growth in achievement" and substitute "student achievement".



(10) In Section 2A.12 of the bill, in added Section 21.652, Education Code (committee printing, page 22, lines 10 through 18), strike added Subsection (c) and substitute the following:

(c) Criteria for making incentive payments to employees under a local incentive plan must be based on high student achievement and improvement on graduation rates.

(11) In Section 2C.15 of the bill, in the introductory language (committee printing, page 39, line 7) between "39.034" and "and", insert ", 39.0341,".

(12) In Section 2C.15 of the bill, in added Section 39.034, Education Code (committee printing, page 39, lines 26 and 27), strike Subsection (e) and substitute the following:

(e) The commissioner may not implement this section before September 1, 2007. The commissioner may implement this section only after complying with Section 39.0341.

(13) In Section 2C.15 of the bill (committee printing, page 39, between lines 27 and 28), insert the following:

Sec. 39.0341. STUDY OF METHOD OF MEASURING INDIVIDUAL STUDENT GROWTH IN ACHIEVEMENT. (a) The commissioner shall conduct a comprehensive study of methods of measuring individual student growth in achievement on assessment instruments.

(b) The study shall include a determination of the feasibility of implementing a method of measuring individual student growth in achievement as described in Section 39.034(a), an analysis of the anticipated effectiveness of the method as a reliable measure of student achievement, and a comparison of methods adopted by other states to measure individual student growth in achievement on assessment instruments.

(c) The commissioner shall report the results of the study to the legislature not later than December 1, 2006. This subsection expires January 1, 2007.

The amendment was read.

On motion of Senator Shapiro, Floor Amendment No. 37 to **CSHB 2** was tabled by the following vote: Yeas 19, Nays 12.

Yeas: Armbrister, Averitt, Brimer, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, Wentworth, Williams.

Nays: Barrientos, Carona, Ellis, Gallegos, Hinojosa, Lucio, Madla, Shapleigh, Van de Putte, West, Whitmire, Zaffrini.

Senator Shapleigh offered the following amendment to the bill:

### **Floor Amendment No. 38**

Amend **CSHB 2** as follows:

(1) In SECTION 2A.12 of the bill, in added Section 21.651(e), Education Code (committee printing, page 21, line 60), strike "and".

(2) In SECTION 2A.12 of the bill, in added Section 21.651(e), Education Code (committee printing, page 21, line 64), between "campus" and the period, insert "; and

(3) teachers who are certified by the National Board for Professional Teaching Standards or who are seeking that certification".

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 38.

Senator Shapleigh offered the following amendment to the bill:

**Floor Amendment No. 39**

Amend the **CSHB 2** in Section 2A.12 of the bill, in added Section 21.651, Education Code (page 21, between lines 30-69 and page 22, between lines 1-36), by inserting the following appropriate lettered subsection:

( ) The commissioner shall annually evaluate the effectiveness of the educator excellence incentive program for improving student performance on at-risk campuses established under this section. The evaluation must consider:

(1) the performance of students in districts and participating campuses under this section on assessment instruments administered under Section 39.023;

(2) the districts' and participating campuses' high school graduation and completion rates; and

(3) the districts' and participating campuses' teacher attrition rates.

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 39.

Senator Van de Putte offered the following amendment to the bill:

**Floor Amendment No. 40**

Amend **CSHB 2** in Article 2 of the bill by inserting the following new part, appropriately lettered, and relettering the subsequent parts of Article 2 accordingly:

PART \_\_. SCHOOL-BASED HEALTH CENTERS

SECTION 2 \_\_.01. Section 38.051(a), Education Code, is amended to read as follows:

(a) A school district in this state may, if the district identifies the need, design a model in accordance with this subchapter for the delivery of cooperative health care programs for students and their families and may compete for grants awarded under this subchapter. The model may provide for the delivery of conventional health services, substance abuse counseling, and disease prevention of emerging health threats that are specific to the district.

SECTION 2 \_\_.02. Sections 38.054 and 38.057, Education Code, are amended to read as follows:

Sec. 38.054. CATEGORIES OF SERVICES. The permissible categories of services are:

- (1) family and home support;
- (2) health care, including immunizations;
- (3) dental health care;
- (4) health education; ~~and~~
- (5) preventive health strategies; and

(6) substance abuse counseling.

Sec. 38.057. IDENTIFICATION OF HEALTH-RELATED CONCERNS. (a) The staff of a school-based health center and the person whose consent is obtained under Section 38.053 shall jointly identify any health-related or substance abuse concerns of a student that may be interfering with the student's well-being or ability to succeed in school.

(b) If it is determined that a student is in need of a referral for mental health or substance abuse counseling services, the staff of the center shall notify the person whose consent is required under Section 38.053 verbally and in writing of the basis for the referral. The referral may not be provided unless the person provides written consent for the type of service to be provided and provides specific written consent for each treatment occasion.

SECTION 2\_\_ .03. Section 38.058(b), Education Code, is amended to read as follows:

(b) A majority of the members of the council must be parents of students enrolled in the district. In addition to the appointees who are parents of students, the board of trustees shall also appoint at least one person from each of the following groups:

- (1) teachers;
- (2) school administrators;
- (3) licensed health care professionals;
- (4) licensed chemical dependency counselors;
- (5) the clergy;
- (6) [~~5~~] law enforcement;
- (7) [~~6~~] the business community;
- (8) [~~7~~] senior citizens; and
- (9) [~~8~~] students.

SECTION 2\_\_ .04. Section 38.060(b), Education Code, is amended to read as follows:

(b) If a school-based health center is located in an area described by Subsection (a), the school district and the advisory council established under Section 38.058 shall make a good faith effort to identify and coordinate with existing providers to preserve and protect existing health care and substance abuse counseling systems and medical relationships in the area.

SECTION 2\_\_ .05. Section 38.061(b), Education Code, is amended to read as follows:

(b) The staff of a school-based health center shall, before delivering a medical service or substance abuse counseling service to a person with a primary care physician under the state Medicaid program, a state children's health plan program, or a private health insurance or health benefit plan or with an advanced practice nurse listed as the primary care provider under such a program or plan, notify the physician or advanced practice nurse for the purpose of sharing medical and substance abuse information and obtaining authorization for delivering the medical or substance abuse counseling service.

SECTION 2\_\_ .06. Section 38.063(f), Education Code, is amended to read as follows:

(f) The commissioner of public health shall adopt rules establishing standards for health care centers funded through grants that:

(1) place primary emphasis on delivery of health services and substance abuse counseling services; and

(2) place secondary emphasis on population-based models that prevent emerging health threats.

The amendment was read.

On motion of Senator Shapiro, Floor Amendment No. 40 to **CSHB 2** was tabled by the following vote: Yeas 19, Nays 12.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Wentworth, Williams.

Nays: Barrientos, Ellis, Gallegos, Hinojosa, Lucio, Madla, Shapleigh, Staples, Van de Putte, West, Whitmire, Zaffirini.

Senator Lucio offered the following amendment to the bill:

#### **Floor Amendment No. 41**

Amend **CSHB 2** by adding the following appropriately lettered part to Article 2 of the bill and relettering the subsequent parts of Article 2 accordingly:

#### PART \_\_. SCHOOL COUNSELING PROGRAMS

SECTION 2 \_\_. Section 33.006, Education Code, is amended by adding Subsection (c) to read as follows:

(c) In accordance with rules adopted by the commissioner, the board of trustees of each school district shall adopt a policy that requires a counselor to spend not more than 10 percent of the counselor's total work time on duties that are not components of a counseling or guidance program developed under Section 33.005. For purposes of this subsection, time spent in administering assessment instruments or providing other assistance in connection with assessment instruments, except time spent in interpreting data from assessment instruments, is not considered time spent on counseling or guidance. Each school in the district shall implement the policy. A copy of the policy shall be maintained in the office of each school in the district and made available on request during regular school hours to district employees, parents of district students, and the public.

SECTION 2 \_\_. Section 39.074, Education Code, is amended by adding Subsection (g) to read as follows:

(g) Before an investigation, the commissioner shall request that the district scheduled for the investigation assess the district's compliance with the policy adopted under Section 33.006(c) and provide a written copy of the assessment to the investigators on or before the date specified by the commissioner. As part of each investigation, the investigators shall interview a percentage of district counselors determined by the commissioner to assess the district's compliance with the policy adopted under Section 33.006(c). The commissioner shall adopt rules to implement this subsection.

SECTION 2 \_\_.\_\_. (a) Each school district shall implement a policy adopted under Section 33.006(c), Education Code, as added by this Act, beginning with the 2006-2007 school year.

(b) Section 39.074(g), Education Code, as added by this Act, applies beginning with the 2006-2007 school year.

The amendment was read.

On motion of Senator Shapiro, Floor Amendment No. 41 to **CSHB 2** was tabled by the following vote: Yeas 17, Nays 13.

Yeas: Brimer, Deuell, Duncan, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, Wentworth, West, Williams.

Nays: Armbrister, Barrientos, Carona, Ellis, Eltife, Gallegos, Hinojosa, Lucio, Madla, Shapleigh, Van de Putte, Whitmire, Zaffirini.

Absent: Averitt.

Senator Lucio offered the following amendment to the bill:

#### **Floor Amendment No. 42**

Amend **CSHB 2** in Article 2 of the bill by inserting the following new part, appropriately lettered, and relettering the subsequent parts of Article 2 accordingly:

PART \_\_\_\_. SAFETY OR LAP BELTS IN SCHOOL BUSES

SECTION 2 \_\_.\_\_. Chapter 34, Education Code, is amended by adding Section 34.012 to read as follows:

Sec. 34.012. FUNDING FOR SAFETY OR LAP BELTS. (a) A person may offer to donate safety or lap belts or money for the purchase of safety or lap belts for a school district's school buses.

(b) The board of trustees of a school district shall consider any offer made by a person under Subsection (a). The board of trustees may accept or decline the offer after adequate consideration.

(c) The board of trustees may acknowledge a person who donates safety or lap belts or money for the purchase of safety or lap belts for a school bus under this section by displaying a small, discreet sign on the side or back of the bus recognizing the person who made the donation. The sign may not serve as an advertisement for the person who made the donation.

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 42.

#### **Floor Amendment No. 43 was not offered.**

Senator Armbrister offered the following amendment to the bill:

#### **Floor Amendment No. 44**

Amend **CSHB 2** as follows:

(1) In ARTICLE 2 of the bill, in PART B (committee printing, page 27, between lines 29 and 30), insert the following SECTION, appropriately numbered:

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

Sec. 7.033. QUALITY MANAGEMENT CERTIFICATION PROGRAM. (a) The commissioner by rule shall adopt a quality management certification program to encourage school districts and open-enrollment charter schools to obtain International Organization for Standardization ISO 9000 quality management certification.

(b) The commissioner by rule shall identify areas of compliance in which the quality management certification program would enhance performance, including:

(1) compliance with federal law and regulations;

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

and

(3) data integrity for purposes of:

(A) the Public Education Information Management System (PEIMS);

and

(B) accountability under Chapter 39.

(c) For each school district or open-enrollment charter school that obtains International Organization for Standardization ISO 9000 series quality management program certification, the commissioner by rule shall require specific performance measures that relate to improvement in:

(1) student performance;

(2) administrative efficiency;

(3) business processes; and

(4) integration and use of educational technology.

(d) For purposes of compliance monitoring, discretionary grant administration, and reporting to the Public Education Information Management System (PEIMS) and under the Education Flexibility Partnership Act of 1999 (20 U.S.C. Section 5891a et seq.), the commissioner by rule shall develop a method for recognizing a school district or open-enrollment charter school that receives and maintains International Organization for Standardization ISO 9000 quality management certification.

(2) In ARTICLE 2 of the bill, in PART B (committee printing, page 27, between lines 63 and 64), insert the following SECTION, appropriately numbered:

SECTION 2B.\_\_\_\_. Subchapter D, Chapter 11, Education Code, is amended by adding Section 11.168 to read as follows:

Sec. 11.168. CERTIFICATION FOR QUALITY MANAGEMENT STANDARDS. Each school district may apply for International Organization for Standardization ISO 9000 certification for quality management standards and apply for renewal of that certification, as applicable.

(3) In ARTICLE 2 of the bill, in PART C (committee printing, page 41, between lines 31 and 32), insert the following SECTION, appropriately numbered:

SECTION 2C.\_\_\_\_. Section 39.053(a), Education Code, is amended to read as follows:

(a) Each board of trustees shall publish an annual report describing the educational performance of the district and of each campus in the district that includes uniform student performance and descriptive information as determined under rules adopted by the commissioner. The annual report must also include:

(1) campus performance objectives established under Section 11.253 and the progress of each campus toward those objectives, which shall be available to the public;

(2) the performance rating for the district as provided under Section 39.072(a) and the performance rating of each campus in the district as provided under Section 39.072(c);

(3) the district's current special education compliance status with the agency;

(4) a statement of the number, rate, and type of violent or criminal incidents that occurred on each district campus, to the extent permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g);

(5) information concerning school violence prevention and violence intervention policies and procedures that the district is using to protect students; ~~and~~

(6) the findings that result from evaluations conducted under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. Section 7101 et seq.) and its subsequent amendments; ~~and~~

(7) information received under Section 51.403(e) for each high school campus in the district, presented in a form determined by the commissioner; and

(8) evidence that the district currently holds International Organization for Standardization ISO 9000 certification for quality management standards or a statement that the district does not hold that certification.

(4) In SECTION 2C.21 of the bill, in the recital (committee printing, page 42, line 6), strike "(a) and (b)" and substitute "(a), (b), and (e)".

(5) In SECTION 2C.21 of the bill, in amended Section 39.073, Education Code (committee printing, page 42, between lines 23 and 24), insert the following:

(e) In determining a district's accreditation rating, the agency shall consider:

(1) the district's current special education compliance status with the agency; ~~and~~

(2) the progress of students who have failed to perform satisfactorily in the preceding school year on an assessment instrument required under Section 39.023(a) ~~[39.023(a), (e),]~~ or (l); and

(3) the district's current certification status under the International Organization for Standardization ISO 9000 series quality management program certification as described by Section 7.033.

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 44.

Senator Wentworth offered the following amendment to the bill:

#### **Floor Amendment No. 45**

Amend **CSHB 2** in Part B, Article 2, of the bill (committee printing, page 30, between lines 62 and 63), by adding the following appropriately numbered section and renumbering the subsequent sections of Part B, Article 2, accordingly:

SECTION 2B.\_\_. Subchapter A, Chapter 44, Education Code, is amended by adding Section 44.011 to read as follows:

Sec. 44.011. EXPENDITURES FOR DIRECT INSTRUCTIONAL ACTIVITIES. (a) A school district shall allocate at least 65 percent of the district's total revenue to fund direct instructional activities in the district.

(a-1) Subsection (a) applies beginning with the 2009-2010 school year. For the 2006-2007, 2007-2008, and 2008-2009 school years, a school district shall allocate the following percentages of the district's total revenue to fund direct instructional activities in the district:

- (1) for the 2006-2007 school year, at least 50 percent;
- (2) for the 2007-2008 school year, at least 55 percent; and
- (3) for the 2008-2009 school year, at least 60 percent.

(a-2) Subsection (a-1) and this subsection expire August 1, 2009.

(b) For purposes of this section, expenditures for direct instructional activities:

(1) include expenditures directly related to classroom instruction for courses in the foundation curriculum described by Section 28.002(a)(1) and subject to assessment under Subchapter B, Chapter 39; and

(2) do not include expenditures directly related to programs and services that are provided at the district's discretion.

(c) The commissioner may adopt rules for purposes of this section in a manner consistent with Subsection (b) and Section 44.0071.

WENTWORTH  
MADLA

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 45.

Senator West offered the following amendment to the bill:

#### **Floor Amendment No. 46**

Amend **CSHB 2** in ARTICLE 2 of the bill, in PART C (page 31, between lines 12 and 13), by inserting the following SECTION, appropriately numbered, and renumbering subsequent SECTIONS of PART C accordingly:

SECTION 2C. \_\_\_\_. Subchapter B, Chapter 28, Education Code, is amended by adding Section 28.0216 to read as follows:

Sec. 28.0216. LIMITS ON ASSIGNMENT OF STUDENTS TO TEACHERS.

(a) A student in kindergarten through grade six may not be assigned for two consecutive school years to a teacher who:

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

(b) In a subject for which a student is assessed under Section 39.023(a), a student in grade 7 through 12 may not be assigned for two consecutive years to a teacher who:

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

The amendment was read.



On motion of Senator Shapiro, Floor Amendment No. 46 to **CSHB 2** was tabled by the following vote: Yeas 20, Nays 11.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, Wentworth, Williams.

Nays: Barrientos, Ellis, Gallegos, Hinojosa, Lucio, Madla, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

**Floor Amendment No. 47 was not offered.**

Senator Hinojosa offered the following amendment to the bill:

**Floor Amendment No. 48**

Amend **CSHB 2** in SECTION 2C.02 of the bill, in added Section 28.027, Education Code (committee printing, page 31, between lines 31 and 32), by inserting the following new Subsection (b) and relettering existing Subsections (b) and (c) accordingly:

(b) The agency shall ensure that vendors are not paid under Subsection (a) for the administration of an assessment instrument to a student to whom the assessment instrument is not actually administered. The agency may comply with this subsection by any reasonable means, including by creating a refund system under which a vendor returns any payment made for a student who registered for the administration of an assessment instrument but did not appear for the administration.

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 48.

Senator Lucio offered the following amendment to the bill:

**Floor Amendment No. 49**

Amend **CSHB 2** as follows:

(1) In Part C, Article 2, of the bill (committee printing, page 34, between lines 32 and 33), add the following appropriately numbered section and renumber the subsequent sections of Part C accordingly:

SECTION 2C.\_\_. Chapter 29, Education Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. COLLEGE ENTRANCE EXAMINATION  
PREPARATION PILOT PROGRAM

Sec. 29.401. DEFINITIONS. In this subchapter:

(1) "College entrance examination" means an assessment instrument, such as the Scholastic Assessment Test (SAT) and the American College Test (ACT), used by colleges and universities in determining student admissions.

(2) "Preparation course" means a college entrance examination preparation course.

(3) "Program" means the college entrance examination preparation pilot program.

Sec. 29.402. ESTABLISHMENT OF PROGRAM; GUIDELINES AND CRITERIA. (a) The agency shall establish a college entrance examination preparation pilot program for the purpose of enabling a participating campus to offer a college entrance examination preparation course to participating students.

(b) The agency shall establish:

(1) clear guidelines for the program, including guidelines for participating campuses to follow in implementing the program; and

(2) criteria for participating campuses to use in selecting students to participate in the program.

Sec. 29.403. APPROVED VENDORS. The agency shall:

(1) establish a process for approving a vendor to provide preparation course instruction for participating campuses; and

(2) compile a list of approved vendors.

Sec. 29.404. CAMPUS ELIGIBILITY. A campus is eligible to participate in the program only if at least 40 percent of the students enrolled at the campus:

(1) are educationally disadvantaged; or

(2) are students at risk of dropping out of school as defined by Section 29.081(d).

Sec. 29.405. APPLICATION PROCESS. (a) A campus, or a school district on behalf of one or more district campuses, may apply to the agency to participate in the program. The application submitted by the campus or district must include a detailed proposal that:

(1) describes the manner in which the campus proposes to:

(A) recruit students to and achieve and maintain strong student attendance and participation in the program; and

(B) assist participating students in completing the preparation course and taking a college entrance examination;

(2) describes how the campus proposes to schedule a preparation course so that the course does not interfere with participating students' regular curriculum requirements or extracurricular activities;

(3) describes the manner in which the campus will be responsible for the logistical requirements of the program;

(4) identifies a campus program coordinator; and

(5) describes the manner in which the campus will report the effectiveness of the program to the agency.

(b) On the basis of applications submitted under this section, the agency shall select to participate in the program campuses that are eligible to participate under Section 29.404.

Sec. 29.406. FUNDING; CAMPUS IMPLEMENTATION OF PROGRAM. (a) A participating campus is entitled to receive a grant from the agency in an amount, determined by the agency, sufficient to implement the program. The agency may not spend more than a total of \$2 million of any agency funds in any fiscal year in awarding grants under this section.

(b) A participating campus shall select a vendor from the agency's list of approved vendors under Section 29.403 to offer a college entrance examination preparation course at the campus.

(c) Using grant funds received under Subsection (a), a participating campus must provide for the logistical requirements of the preparation course, such as the course's location and transportation to the course, and supplies, such as pencils and calculators.

Sec. 29.407. EVALUATION; REPORT. (a) Each participating campus shall, with the assistance of the vendor serving the campus, report preparation course performance data to the agency. The performance data must include aggregated student scores and progress reports, including the college entrance examination scores of participating students.

(b) The agency shall conduct an evaluation of the program. Each participating campus shall cooperate with the agency to ensure an effective evaluation.

(c) The agency shall report the results of the evaluation to the legislature not later than December 31, 2006.

Sec. 29.408. RULES. The commissioner shall adopt rules necessary to administer this subchapter.

Sec. 29.409. EXPIRATION. This subchapter expires August 1, 2007.

(2) In Part C, Article 2, of the bill (committee printing, page 50, between lines 11 and 12), add the following appropriately numbered section and renumber the subsequent sections of Part C accordingly:

SECTION 2C. \_\_. As soon as practicable after the effective date of this Act, the commissioner of education shall adopt rules for implementing the college entrance examination preparation pilot program as required by Subchapter K, Chapter 29, Education Code, as added by this Act. The commissioner of education shall make the college entrance examination preparation pilot program available for school campus participation for the 2005-2006 and 2006-2007 school years.

The amendment was read.

On motion of Senator Shapiro, Floor Amendment No. 49 to **CSHB 2** was tabled by the following vote: Yeas 22, Nays 9.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, Van de Putte, Wentworth, West, Williams.

Nays: Barrientos, Ellis, Gallegos, Hinojosa, Lucio, Madla, Shapleigh, Whitmire, Zaffirini.

Senator Barrientos offered the following amendment to the bill:

### **Floor Amendment No. 50**

Amend **CSHB 2** in ARTICLE 2 of the bill, in PART C (committee printing, page 34, between lines 32 and 33) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS appropriately:

SECTION 2C. \_\_. Subchapter Z, Chapter 29, Education Code, is amended by adding Section 29.913 to read as follows:

Sec. 29.913. "EDUCATION. GO GET IT" WEEK. (a) To educate middle school, junior high school, and high school students about the importance of higher education, each school district and each open-enrollment charter school offering those grades shall designate one week during the school year as "Education. Go Get It" Week.

(b) During the designated week, each middle school, junior high school, and high school shall provide students with comprehensive grade-appropriate information regarding the pursuit of higher education. The information provided must include information regarding:

(1) higher education options available to students;

(2) standard admission requirements for institutions of higher education, including:

(A) overall high school grade point average;

(B) required curriculum; and

(C) scores necessary on generally recognized tests or assessments used in admissions determinations, including the Scholastic Assessment Test and the American College Test;

(3) automatic admission of certain students to general academic teaching institutions as provided by Section 51.803; and

(4) financial aid availability and requirements, including the financial aid information provided by counselors under Section 33.007(b).

(c) In addition to the information provided under Subsection (b), each middle school, junior high school, and high school shall provide to the students during the designated week at least one public speaker to promote the importance of higher education.

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 50.

**Floor Amendment No. 51 was not offered.**

Senator Barrientos offered the following amendment to the bill:

**Floor Amendment No. 52**

Amend **CSHB 2** in Article 2 of the bill by adding the following appropriately lettered part to the article:

PART \_\_\_\_ . SCHOOL DISCIPLINE AND SAFETY

SECTION 2 \_\_\_\_ .01. Subchapter C, Chapter 37, Education Code, is amended by adding Section 37.0831 to read as follows:

Sec. 37.0831. DATING VIOLENCE POLICIES. (a) Each school district shall adopt and implement a dating violence policy to be included in the district improvement plan under Section 11.252.

(b) A dating violence policy must:

(1) include a definition of dating violence that includes the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person in a continuing relationship of a romantic or intimate nature; and

(2) address safety planning, enforcement of protective orders, school-based alternatives to protective orders, training for teachers and administrators, counseling for affected students, and awareness education for students and parents.

The amendment was read.

On motion of Senator Shapiro, Floor Amendment No. 52 to **CSHB 2** was tabled by the following vote: Yeas 21, Nays 9.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Madla, Nelson, Ogden, Seliger, Shapiro, Staples, Wentworth, Whitmire, Williams.

Nays: Armbrister, Barrientos, Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, Van de Putte, Zaffirini.

Absent: West.

Senator Gallegos offered the following amendment to the bill:

### **Floor Amendment No. 53**

Amend **CSHB 2** by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONs accordingly:

SECTION \_\_\_\_\_. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.034 to read as follows:

Sec. 39.034. ADVERSE PERSONNEL ACTION PROHIBITED. (a) In this section:

(1) "Adverse personnel action" includes the transfer of a school employee to another school, the documentation of a poor appraisal under Subchapter H, Chapter 21, or a less desirable assignment within the same school campus.

(2) "Cheating" means any action intended to enable students to mark the correct response on an assessment instrument other than through the student's learning, individual effort, or personal knowledge.

(b) A school administrator may not suspend or terminate the employment of, or take other adverse personnel action against, a school district or charter school employee who reports cheating in the administration of an assessment instrument under this chapter.

(c) A school district or charter school employee who is suspended, terminated, or subjected to an adverse personnel action in violation of Subsection (b) may sue for the following relief:

(1) injunctive relief;

(2) actual damages;

(3) inconvenience;

(4) court costs; and

(5) reasonable attorney's fees.

(d) In addition to relief under Subsection (c), an employee who is suspended, terminated, or subjected to an adverse personnel action in violation of Subsection (b) may sue for other pecuniary loss in an amount not exceeding \$5,000 for each instance the employee reports cheating in the administration of an assessment instrument under this chapter.

The amendment was read.

On motion of Senator Shapiro, Floor Amendment No. 53 to **CSHB 2** was tabled by the following vote: Yeas 21, Nays 9.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, Wentworth, West, Williams.

Nays: Barrientos, Ellis, Gallegos, Hinojosa, Lucio, Madla, Shapleigh, Van de Putte, Zaffirini.

Absent: Whitmire.

**Floor Amendment No. 54 was not offered.**

Senator Shapleigh offered the following amendment to the bill:

**Floor Amendment No. 55**

Amend the **CSHB 2** in Section 2C.23 of the bill, in added Section 39.113, Education Code (page 42, between lines 32-69 and page 43, between lines 1-8), by inserting the following appropriate lettered subsection:

( ) The commissioner shall annually evaluate the effectiveness of the state incentive program for improving student performance on at-risk campuses established under this section. The evaluation must consider:

(1) the performance of students in districts under this section on assessment instruments administered under Section 39.023;

(2) the districts' high school graduation and completion rates; and

(3) the districts' teacher attrition rates.

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 55.

Senator Shapleigh offered the following amendment to the bill:

**Floor Amendment No. 56**

Amend **CSHB 2** as follows:

(1) In SECTION 2C.24 of the bill, in added Section 39.132(a-4), Education Code (committee printing, page 44, lines 57-58), strike "or pursue alternative management under Section 39.1321".

(2) In SECTION 2C.24 of the bill, in added Section 39.132(a-4), Education Code (committee printing, page 44, line 62), after the period, insert the following: If a campus is considered an academically unacceptable campus under Subsection (a) for the subsequent school year after the campus is reconstituted under this subsection, the commissioner shall pursue alternative management under Section 39.1321.

(3) In SECTION 2C.24 of the bill, in amended Section 39.132(b), Education Code (committee printing, page 44, line 68), strike "or pursue alternative management under Section 39.1321".

(4) In SECTION 2C.24 of the bill, in amended Section 39.132, Education Code (committee printing, page 45, between lines 39 and 40), insert the following:

(f) If a campus is considered an academically unacceptable campus under Subsection (a) for the subsequent school year after the campus is reconstituted under Subsection (b), the commissioner shall pursue alternative management under Section 39.1321.

(5) In SECTION 2C.25 of the bill, in added Section 39.1321(a), Education Code (committee printing, page 45, lines 44-45), strike "under Section 39.132 for two consecutive school years" and substitute "under Section 39.132(a) for the subsequent school year after the campus is reconstituted under Section 39.132(a-4) or (b)".

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 56.

Senator Shapleigh offered the following amendment to the bill:

#### **Floor Amendment No. 57**

Amend **CSHB 2** in Section 2C.25 of the bill, in added Section 39.1321 (page 46, between lines 7 and 8), by inserting the following appropriately lettered subsection:

( ) In selecting a managing entity under this section, the commissioner shall give preference to an entity that:

(1) meets any qualifications under this section; and

(2) has documented success in educating students from similar demographic groups and with similar educational needs as the students who attend the campus that is to be operated by a managing entity under this section.

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 57.

Senator Shapleigh offered the following amendment to the bill:

#### **Floor Amendment No. 58**

Amend **CSHB 2** as follows:

(1) In SECTION 2C.25 of the bill, in added Section 39.1321(e), Education Code (committee printing, page 46, line 5), strike "and".

(2) In SECTION 2C.25 of the bill, in added Section 39.1321(e), Education Code (committee printing, page 46, between lines 5 and 6), insert the following:

(4) a proven record of financial ability to perform under the management contract; and

(3) In SECTION 2C.25 of the bill, in added Section 39.1321(e), Education Code (committee printing, page 46, line 6), strike "(4)" and substitute "(5)".

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 58.

Senator Hinojosa offered the following amendment to the bill:

**Floor Amendment No. 59**

Amend **CSHB 2** in Section 2C.25, in added Section 39.1321, Education Code (page 46, between lines 47 and 48), by inserting the following:

(k) With respect to the management of a campus under this section:

(1) a managing entity is considered to be a governmental body for purposes of Chapters 551 and 552, Government Code; and

(2) any requirement in Chapter 551 or 552, Government Code, that applies to a school district or the board of trustees of a school district applies to a managing entity.

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 59.

**(Senator Armbrister in Chair)**

Senator Shapleigh offered the following amendment to the bill:

**Floor Amendment No. 60**

Amend **CSHB 2** as follows:

(1) In SECTION 2E.06, in added Section 28.0052(b)(1)(A), Education Code (committee printing, page 64, line 48), between "to" and "a", insert "at least".

(2) In SECTION 2E.06, in added Section 28.0052(c)(1), Education Code (committee printing, page 64, line 65), strike "hiring, training, and certifying teachers" and substitute "hiring and training teachers and ensuring teacher certification".

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 60.

Senator Gallegos offered the following amendment to the bill:

**Floor Amendment No. 61**

Amend **CSHB 2**, on page 93, between lines 51 and 52, by adding a new subsection (3) to read as follows:

(3) Notwithstanding sections (b)(1) and (2) above, (A) before revoking the charter of a public charter district that serves predominantly at-risk students and that is within 5 percentage points below the academically acceptable standard in either of the preceding two years, the commissioner shall review and consider the following factors:

(1) significant student-level individual academic growth;

(2) longevity and stability of the program; and

(3) graduation success rate.

(B) If the review indicates that positive outcomes are evident, then the public charter district shall be placed on probation for two years.

(C) During the period of probation, the public charter district, at its own expense, shall report on its progress to the commissioner every six weeks.



The amendment was read.

On motion of Senator Shapiro, Floor Amendment No. 61 to **CSHB 2** was tabled by the following vote: Yeas 27, Nays 4.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Harris, Hinojosa, Jackson, Janek, Lindsay, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Barrientos, Gallegos, Lucio, Van de Putte.

Senator Zaffirini offered the following amendment to the bill:

### **Floor Amendment No. 62**

Amend **CSHB 2** as follows:

(1) In SECTION 4.02 of the bill, in added Section 11A.202, Education Code (committee printing, page 98, between lines 5 and 6), insert the following:

(e-1) Before paying any allotments under this section during a biennium, the commissioner shall determine whether the amount of money available during the biennium to fund new projects by school districts under Subchapter A, Chapter 46, is less than \$150 million. If the amount available is less than \$150 million, the commissioner shall:

(1) withhold from the amount appropriated for the biennium for allotments under this section the amount by which \$150 million exceeds the amount available during the biennium to fund new projects under Subchapter A, Chapter 46; and

(2) use the withheld amount to fund new projects under Subchapter A, Chapter 46.

(2) In SECTION 4.02 of the bill, in added Section 11A.202(g), Education Code (committee printing, page 98, line 19), between "e" and "is", insert "or (e-1)".

The amendment was read.

Senator Zaffirini withdrew Floor Amendment No. 62.

Senator Zaffirini offered the following amendment to the bill:

### **Floor Amendment No. 63**

Amend **CSHB 2** as follows:

On page 102, strike lines 8-10 and substitute the following:

Sec. 11A.301. MINIMUM TEACHER QUALIFICATIONS. (a) Except as otherwise required by this section or chapter, a person employed as a teacher by a public charter district must hold a high school diploma.

(b) To the extent required by federal law, including 20 U.S.C. 7801(11), a person employed as a teacher by a public charter district must hold a baccalaureate degree.

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 63.

Senator Staples offered the following amendment to the bill:

#### **Floor Amendment No. 64**

Amend **CSHB 2** as follows:

In Section 2A.10 of the bill, strike added Subsection (c-1), Section 21.402, Education Code (committee printing), page 20, lines 13-23), and substitute the following:

(c-1) Notwithstanding Subsection (a), for the 2006-2007 school year, a classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse is entitled to a monthly salary that is at least equal to the sum of:

(1) the monthly salary the employee received for the 2004-2005 school year, including any local supplement and any money representing a career ladder supplement the employee would have received in the 2005-2006 school year; and

(2) \$350.

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 64.

Senator Jackson offered the following amendment to the bill:

#### **Floor Amendment No. 65**

Amend **CSHB 2** as follows:

(1) In the introductory language of Section 1A.12 of the bill (committee printing, page 4, line 3), strike "(e) and (f)" and substitute "(e), (f), and (g)".

(2) At the end of Section 1A.12 of the bill (committee printing, page 4, between lines 21 and 22), insert the following:

(g) Notwithstanding Subsections (d), (e), and (f), if a school district's maintenance and operations tax rate for the 2004 tax year exceeded a rate of \$1.50 for each \$100 of taxable value of property, the district is entitled to impose an ad valorem tax under this section:

(1) without authorization at an election held for that purpose; and

(2) at a rate not to exceed the sum of:

(A) the rate authorized under this section; and

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

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 65.

Senator West offered the following amendment to the bill:

#### **Floor Amendment No. 66**

Amend **CSHB 2** in Section 4.02 of the bill in proposed Subsection (b)(1), Section 11A.202, Education Code (committee printing, page 97, lines 52 and 53), by striking "or has performed at a comparable level, as determined by the commissioner

for purposes of this section" and substitute "and during each of the two school years administered an assessment instrument under Section 39.023(a) or (l) to at least 100 students and 75 percent of the students enrolled at the campus".

The amendment was read.

Senator West withdrew Floor Amendment No. 66.

Senator Madla offered the following amendment to the bill:

**Floor Amendment No. 67**

Amend **CSHB 2** as follows:

Section 42.155, Education Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) Each district or county operating a regular transportation system is entitled to an allotment based on the daily cost per regular eligible student of operating and maintaining the regular transportation system and the linear density of that system. In determining the cost, the commissioner shall give consideration to factors affecting the actual cost of providing these transportation services in each district or county. The average actual cost is to be computed by the commissioner and included for consideration by the legislature in the General Appropriations Act.

(c-1) The allotment per mile of approved route under Subsection (c) is computed and follows:

| <u>Linear Density Grouping</u> | <u>Allocation Per mile of Approved Route</u> |
|--------------------------------|--|
| 2.40 and above . . . . .       | \$ 1.42                                      |
| 1.65 to 2.40 . . . . .         | 1.28   |
| 1.15 to 1.65 . . . . .         | 1.11   |
| .90 to 1.15 . . . . .          | .97  |
| .65 to .90 . . . . .           | .88  |

The allocation per mile of approved route for the bottom linear density groupings of up to .40 through .65 shall be moved into the next linear density group of up to .90.

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 67.

Senator Nelson offered the following amendment to the bill:

**Floor Amendment No. 68**

Amend **CSHB 2** by adding an appropriately numbered SECTION to read as follows:

SECTION \_\_. Section 21.003(a), Education Code, is amended to read as follows:

(a) A person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by Subchapter B.

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 68.

Senator Staples offered the following amendment to the bill:

**Floor Amendment No. 69**

Amend **CSHB 2** (Senate committee printing version) by adding the following appropriately numbered SECTIONS:

SECTION \_\_. Subchapter D, Chapter 37, Education Code, is amended by adding Section 37.108 to read as follows:

Sec. 37.108. MULTHAZARD EMERGENCY OPERATIONS PLAN; SECURITY AUDIT. (a) Each school district shall adopt and implement a multihazard emergency operations plan for use in district schools. The plan must address mitigation, preparedness, response, and recovery as recommended by the United States Department of Homeland Security. The plan must provide for:

(1) district employee training in responding to an emergency;

(2) mandatory school drills to prepare district students and employees for responding to an emergency;

(3) measures to ensure coordination with local emergency management agencies, law enforcement, and fire departments in the event of an emergency; and

(4) the implementation of a security audit as required by Subsection (b).

(b) At least once every three years, a school district shall conduct a security audit of the district's facilities. To the extent possible, a district shall follow security audit procedures developed by the Texas School Safety Center or a comparable public or private entity.

(c) A school district shall report the results of the security audit conducted under Subsection (b) to the district's board of trustees.

SECTION \_\_. Subsection (a), Section 37.203, Education Code, is amended to read as follows:

(a) The center is advised ~~governed~~ by a board of directors composed of:

(1) the attorney general, or the attorney general's designee;

(2) the commissioner, or the commissioner's designee;

(3) the executive director of the Texas Juvenile Probation Commission, or the executive director's designee;

(4) the executive director of the Texas Youth Commission, or the executive director's designee;

(5) the commissioner of the Texas Department of Mental Health and Mental Retardation, or the commissioner's designee; and

(6) the following members appointed by the governor with the advice and consent of the senate:

(A) a juvenile court judge;

(B) a member of a school district's board of trustees;

(C) an administrator of a public primary school;

(D) an administrator of a public secondary school;

(E) a member of the state parent-teacher association;

(F) a teacher from a public primary or secondary school;

(G) a public school superintendent who is a member of the Texas Association of School Administrators;

(H) a school district police officer or a peace officer whose primary duty consists of working in a public school; and

(I) two members of the public.

SECTION \_\_. Section 37.205, Education Code, is amended to read as follows:

Sec. 37.205. SAFETY TRAINING PROGRAMS. The center shall conduct for school districts a safety training program that includes:

(1) development of a positive school environment and proactive safety measures designed to address local concerns;

(2) school safety courses for law enforcement officials, with a focus on school district police officers and school resource officers;

(3) discussion of school safety issues with parents and community members; and

(4) assistance in developing a multihazard emergency operations plan for adoption under Section 37.108 [~~specialized training for the staff of alternative education programs and juvenile justice alternative education programs~~].

SECTION 4. Subchapter G, Chapter 37, Education Code, is amended by adding Section 37.2051 to read as follows:

Sec. 37.2051. SECURITY CRITERIA FOR INSTRUCTIONAL FACILITIES.  
The center shall develop security criteria that school districts may consider in the design of instructional facilities.

SECTION \_\_. Section 37.208, Education Code, is amended to read as follows:

Sec. 37.208. ON-SITE ASSISTANCE. On request of a school district, the center may [~~shall~~] provide on-site technical assistance to the district for:

(1) school safety and security audits; and

(2) school safety and security information and presentations.

SECTION \_\_. Subsection (b), Section 37.215, Education Code, is amended to read as follows:

(b) The center [~~board~~] shall biannually prepare a budget request [~~for the center~~] for submission to the legislature.

SECTION \_\_. Subchapter A, Chapter 46, Education Code, is amended by adding Section 46.0081 to read as follows:

Sec. 46.0081. SECURITY CRITERIA IN DESIGN OF INSTRUCTIONAL FACILITIES.  
A school district that constructs a new instructional facility or conducts a major renovation of an existing instructional facility using funds allotted to the district under this subchapter shall consider, in the design of the instructional facility, security criteria developed by the Texas School Safety Center under Section 37.2051.

SECTION \_\_. Sections 37.206 and 37.213, Education Code, are repealed.

SECTION \_\_. (a) Not later than December 1, 2005, the Texas School Safety Center shall:

(1) develop a school safety program that includes assistance to school districts in developing a multihazard emergency operations plan as required by Section 37.205, Education Code, as amended by this Act; and

(2) develop security criteria for the construction and renovation of school district instructional facilities as required by Section 37.2051, Education Code, as added by this Act.

(b) Not later than March 1, 2006, each school district shall adopt a multihazard emergency operations plan as required by Section 37.108, Education Code, as added by this Act.

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 69.

**VOTE RECONSIDERED ON  
FLOOR AMENDMENT NO. 2**

On motion of Senator Shapiro and by unanimous consent, the vote by which Floor Amendment No. 2 was adopted was reconsidered.

Question — Shall Floor Amendment No. 2 to **CSHB 2** be adopted?

Senator Shapiro offered the following amendment to Floor Amendment No. 2:

**Floor Amendment No. 70**

Amend Floor Amendment No. 2 to **CSHB 2** as follows:

(1) In proposed Subsection (e), Section 45.003, Education Code, (proposed amendment, page 2, lines 3 and 4), strike "or a subsequent tax year" and substitute the following:

. An election held before January 1, 2006, authorizing a maintenance tax at a rate of at least \$1.10 on the \$100 valuation of taxable property in the district is sufficient to authorize a rate of \$1.10 or less for the 2006 tax year or a subsequent tax year.

(2) In the proposed amendment to Subsection (a), Section 42.252, Education Code (proposed amendment, page 3, line 7), strike "\$1.15" and substitute "\$1.10".

The amendment to Floor Amendment No. 2 to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 70.

Senator Staples offered the following amendment to Floor Amendment No. 2:

**Floor Amendment No. 71**

Amend Floor Amendment No. 2 to **CSHB 2** as follows:

(1) In proposed Subsection (a), Section 41.091, Education Code (proposed amendment, page 7, line 19), strike "(a)".

(2) In proposed Subsection (a), Section 41.091, Education Code (proposed amendment, page 7, line 23), strike "the lesser of".

(3) In proposed Subsection (a), Section 41.091, Education Code (proposed amendment, page 7, lines 25-27), strike "or the amount equal to 35 percent of the district's total maintenance and operations tax revenue".

(4) Strike proposed Subsections (b) and (c), Section 41.091, Education Code (proposed amendment, page 8, lines 2-11).

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The amendment to Floor Amendment No. 2 to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 71.

Question recurring on the adoption of Floor Amendment No. 2 to **CSHB 2**, the amendment as amended was again adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 as amended.

Senator Harris moved that the Senate limit the amendments to be offered on **CSHB 2** to those that are currently on the President's desk, those being Floor Amendment Nos. 72 and 73.

The motion prevailed without objection.

Senator Zaffirini offered the following amendment to the bill:

### **Floor Amendment No. 72**

Amend **CSHB 2** by adding an appropriately numbered SECTION of the bill to read as follows and renumbering the existing SECTIONS of the bill accordingly:

Section \_\_

Section 25.087, Education Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A school district shall excuse a student from attending school for:

(1) the following purposes, including travel for those purposes:

(A) ~~[purpose of]~~ observing religious holy days;

(B) appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship or to take part in a naturalization oath ceremony;

(C) attending an appointment with the student's probation officer;

(D) attending an adoption proceeding involving the student; or

(E) attending a required court appearance; or

(2) a ~~[, including traveling for that purpose. A school district shall excuse a student for]~~ temporary absence resulting from health care professionals if that student commences classes or returns to school on the same day of the appointment.

(c) A student whose absence is excused under Subsection (b) ~~[this subsection]~~ may not be penalized for that absence and shall be counted as if the student attended school for purposes of calculating the average daily attendance of students in the school district. A student whose absence is excused under Subsection (b) ~~[this subsection]~~ shall be allowed a reasonable time to make up school work missed on those days. If the student satisfactorily completes the school work, the day of absence shall be counted as a day of compulsory attendance.

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 72.

Senator Shapleigh offered the following amendment to the bill:

**Floor Amendment No. 73**

Amend **CSHB 2** by adding the following appropriately numbered article and renumbering the subsequent articles accordingly:

ARTICLE \_\_\_\_ . ABOLISHMENT OF STATE BOARD FOR EDUCATOR  
CERTIFICATION; TRANSFER OF POWERS AND DUTIES

SECTION \_\_\_\_ .01. Section 21.0031(a), Education Code, is amended to read as follows:

(a) An employee's probationary, continuing, or term contract under this chapter is void if the employee:

(1) does not hold a certificate or permit issued under Subchapter B [~~by the State Board for Educator Certification~~]; or

(2) fails to fulfill the requirements necessary to extend the employee's temporary or emergency certificate or permit.

SECTION \_\_\_\_ .02. Sections 21.004(a)-(e), Education Code, are amended to read as follows:

(a) To the extent that funds are available, the agency[~~, the State Board for Educator Certification,~~] and the Texas Higher Education Coordinating Board shall develop and implement programs to identify talented students and recruit those students and persons, including high school and undergraduate students, mid-career and retired professionals, honorably discharged and retired military personnel, and members of underrepresented gender and ethnic groups, into the teaching profession.

(b) From available funds, the agency[~~, the State Board for Educator Certification,~~] and the Texas Higher Education Coordinating Board shall develop and distribute materials that emphasize the importance of the teaching profession and inform individuals about state-funded loan forgiveness and tuition assistance programs.

(c) The commissioner, in cooperation with the commissioner of higher education [~~and the executive director of the State Board for Educator Certification~~], shall annually identify the need for teachers in specific subject areas and geographic regions and among underrepresented groups. The commissioner shall give priority to developing and implementing recruitment programs to address those needs from the agency's discretionary funds.

(d) The agency[~~, the State Board for Educator Certification,~~] and the Texas Higher Education Coordinating Board shall encourage the business community to cooperate with local schools to develop recruiting programs designed to attract and retain capable teachers, including programs to provide summer employment opportunities for teachers.

(e) The agency[~~, the State Board for Educator Certification,~~] and the Texas Higher Education Coordinating Board shall encourage major education associations to cooperate in developing a long-range program promoting teaching as a career and to assist in identifying local activities and resources that may be used to promote the teaching profession.

SECTION \_\_\_\_ .03. Section 21.006, Education Code, is amended by amending Subsections (a)-(c) and (e)-(g) and adding Subsection (h) to read as follows:



(a) In this section:

(1) "Abuse" [~~]-"abuse"~~] has the meaning assigned by Section 261.001, Family Code, and includes any sexual conduct involving an educator and a student or minor.

(2) "Board" means the Educators' Professional Practices Board.

(b) In addition to the reporting requirement under Section 261.101, Family Code, the superintendent or director of a school district, regional education service center, or shared services arrangement shall notify the commissioner [~~State Board for Educator Certification~~] if the superintendent or director has reasonable cause to believe that:

(1) an educator employed by or seeking employment by the district, service center, or shared services arrangement has a criminal record;

(2) an educator's employment at the district, service center, or shared services arrangement was terminated based on a determination that the educator:

(A) abused or otherwise committed an unlawful act with a student or minor;

(B) possessed, transferred, sold, or distributed a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq. [~~and its subsequent amendments~~];

(C) illegally transferred, appropriated, or expended funds or other property of the district, service center, or shared services arrangement;

(D) attempted by fraudulent or unauthorized means to obtain or alter a professional certificate or license for the purpose of promotion or additional compensation; or

(E) committed a criminal offense or any part of a criminal offense on school property or at a school-sponsored event; or

(3) the educator resigned and reasonable evidence supports a recommendation by the superintendent or director to terminate the educator based on a determination that the educator engaged in misconduct described by Subdivision (2).

(c) The superintendent or director must notify the commissioner [~~State Board for Educator Certification~~] by filing a report with the commissioner [~~board~~] not later than the seventh day after the date the superintendent or director first learns about an alleged incident of misconduct described by Subsection (b). The report must be:

(1) in writing; and

(2) in a form prescribed by the board.

(e) A superintendent or director who in good faith and while acting in an official capacity files a report with the commissioner [~~State Board for Educator Certification~~] under this section is immune from civil or criminal liability that might otherwise be incurred or imposed.

(f) The board, acting on a recommendation of the commissioner, [~~State Board for Educator Certification~~] shall determine whether to impose sanctions against a superintendent or director who fails to file a report in violation of Subsection (c).

(g) The commissioner [~~State Board for Educator Certification~~] shall propose rules as necessary to implement this section.

(h) The commissioner shall forward a report received under this section to the board for use as the commissioner determines appropriate in the execution of the board's duties.

SECTION \_\_\_\_\_.035. Subchapter A, Chapter 21, Education Code, is amended by adding Section 21.007 to read as follows:

Sec. 21.007. RECOMMENDATION TO SANCTION. The commissioner shall determine whether to recommend a sanction against an educator to the board under this chapter. The board shall make a final determination regarding the imposition of a sanction under this chapter.

SECTION \_\_\_\_\_.04. Sections 21.031 and 21.032, Education Code, are amended to read as follows:

Sec. 21.031. PURPOSE. (a) The Educators' Professional Practices [State] Board [for Educator Certification] is established in the agency to recognize public school educators as professionals and to grant educators the authority to govern the standards of their profession. The board shall regulate and oversee [all aspects of] the [certification, continuing education, and] standards of conduct of public school educators.

(b) The commissioner shall adopt rules governing the certification of educators and continuing education for educators. In adopting [In proposing] rules under this subchapter, the commissioner [board] shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state.

Sec. 21.032. DEFINITION. In this subchapter, "board" means the Educators' Professional Practices [State] Board [for Educator Certification].

SECTION \_\_\_\_\_.05. The heading to Section 21.033, Education Code, is amended to read as follows:

Sec. 21.033. EDUCATORS' PROFESSIONAL PRACTICES [STATE] BOARD [FOR EDUCATOR CERTIFICATION].

SECTION \_\_\_\_\_.06. Section 21.033, Education Code, is amended by amending Subsection (a) and adding Subsections (a-1), (d), and (e) to read as follows:

(a) The board [State Board for Educator Certification] is composed of 11 [14] members~~[-The commissioner of education shall appoint an employee of the agency to represent the commissioner as a nonvoting member. The commissioner of higher education shall appoint an employee of the Texas Higher Education Coordinating Board to represent the commissioner as a nonvoting member. The governor shall appoint a dean of a college of education in this state as a nonvoting member. The remaining 11 members are]~~ appointed by the commissioner [governor with the advice and consent of the senate,] as follows:

(1) six [four] members must be classroom teachers, appointed as provided by Subsection (a-1) [employed in public schools];

(2) not more than two members of the board may [must] be [public] school administrators; and

(3) a number of other members consistent with this subsection who the commissioner determines are qualified [one member must be a public school counselor; and

~~[(4) four members must be citizens, three of whom are not and have not, in the five years preceding appointment, been employed by a public school district or by an educator preparation program in an institution of higher education and one of whom is not and has not been employed by a public school district or by an educator preparation program in an institution of higher education].~~

(a-1) In appointing a board member under Subsection (a)(1), the commissioner shall request a list of qualified candidates from each of the four statewide professional educator associations in this state with the largest membership of classroom teachers and shall make appointments from the candidates listed. Not later than the 30th day after the date on which the association receives notice of the commissioner's request for candidate nominations, the association shall submit a list of six candidates for membership on the board. If the commissioner does not receive nominations for at least 12 candidates the commissioner may appoint classroom teachers not nominated by an association.

(d) The commissioner shall designate a member of the board as the presiding officer of the board to serve in that capacity at the pleasure of the commissioner.

(e) The agency shall provide administrative services for the board as necessary.

(f) A reference in law to the State Board for Educator Certification means the Educators' Professional Practices Board.

SECTION \_\_\_\_.07. Section 21.034, Education Code, is amended to read as follows:

Sec. 21.034. TERMS; VACANCY. (a) The board members ~~[appointed by the governor]~~ hold office for staggered terms of six years with the terms of one-third, or as near to one-third as possible, of the members expiring on February 1 of each odd-numbered year. ~~[A member appointed by the commissioner of education or the commissioner of higher education serves at the will of the appointing commissioner.]~~

(b) In the event of a vacancy during a term of a member ~~[appointed by the governor]~~, the commissioner ~~[governor]~~ shall appoint a replacement who meets the qualifications of the vacated office to fill the unexpired portion of the term.

(c) A vacancy arises if a member ~~[appointed by the governor]~~ no longer qualifies for the office to which the member was appointed, as determined by the commissioner.

SECTION \_\_\_\_.075. Section 21.035(a), Education Code, is amended to read as follows:

~~[(a)]~~ The board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this subchapter expires on the date prescribed by Section 7.004 for abolishment of the agency [September 1, 2005].

SECTION \_\_\_\_.08. Subchapter B, Chapter 21, Education Code, is amended by adding Section 21.0391 to read as follows:

Sec. 21.0391. ADVISORY COMMITTEE. (a) The commissioner shall appoint an advisory committee composed of holders of each class of educator certificate and stakeholders as required under Chapter 2008, Government Code.

(b) The advisory committee shall recommend educator certification standards and educator preparation program standards under Sections 21.044 and 21.045, and propose related rules to the commissioner through negotiated rulemaking under

Chapter 2008, Government Code. For purposes of that chapter, the advisory committee is considered to be the negotiated rulemaking committee described by Section 2008.054.

(c) The commissioner may not finally adopt or amend a rule subject to this section unless the State Board of Education has failed to reject the rule or amendment by an affirmative vote of two-thirds of its members. A vote under this subsection may be conducted by mail ballot, provided that the State Board of Education has at least 30 days written notice of the proposed final rule adoption.

(d) Members of the advisory committee serve at the will of the commissioner.

SECTION \_\_.09. Sections 21.041, 21.044, and 21.045, Education Code, are amended to read as follows:

Sec. 21.041. RULES; FEES. (a) The board may adopt rules as necessary for its own procedures.

(a-1) The board shall adopt rules that provide for the adoption and amendment of an educator's code of ethics.

(b) The commissioner [~~board~~] shall adopt [~~propose~~] rules that:

(1) provide for the issuance and renewal of educator certificates. [~~regulation of educators and the general administration of this subchapter~~] in a manner consistent with this subchapter;

(2) specify the classes of educator certificates to be issued, including emergency certificates;

(3) specify the period for which each class of educator certificate is valid;

(4) specify the requirements for the issuance and renewal of an educator certificate;

(5) provide for the issuance of an educator certificate to a person who holds a similar certificate issued by another state or foreign country, subject to Section 21.052;

(6) provide for special or restricted certification of educators, including certification of instructors of American Sign Language;

(7) provide for disciplinary proceedings, including the suspension or revocation of an educator certificate, as provided by Chapter 2001, Government Code;

(8) [~~provide for the adoption, amendment, and enforcement of an educator's code of ethics;~~

[~~(9)~~] provide for continuing education requirements; [~~and~~]

(9) [(10)] provide for certification of persons performing appraisals under Subchapter H; and

(10) provide for the regulation of educators in a manner consistent with this subchapter.

(c) The commissioner by rule [~~board~~] shall set [~~propose a rule adopting~~] a fee for the issuance and maintenance of an educator certificate that is adequate to cover the cost of administration of this subchapter, including costs related to the operation of the board.

Sec. 21.044. EDUCATOR PREPARATION. The commissioner [~~board~~] shall adopt [~~propose~~] rules establishing the training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program. The commissioner [~~board~~] shall specify the minimum academic qualifications required for a certificate.

Sec. 21.045. ACCOUNTABILITY SYSTEM FOR EDUCATOR PREPARATION PROGRAMS. (a) The commissioner [~~board~~] shall adopt [~~propose~~] rules establishing standards to govern the approval and continuing accountability of all educator preparation programs based on information that is disaggregated with respect to sex and ethnicity and that includes:

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

(2) performance based on the appraisal system for beginning teachers adopted by the commissioner [~~board~~].

(b) Each educator preparation program shall submit data elements as required by the commissioner [~~board~~] for an annual performance report to ensure access and equity. At a minimum, the annual report must contain the performance data from Subsection (a) and the following information, disaggregated by sex and ethnicity:

(1) the number of candidates who apply;

(2) the number of candidates admitted;

(3) the number of candidates retained;

(4) the number of candidates completing the program;

(5) the number of candidates employed in the profession after completing the program; and

(6) the number of candidates retained in the profession.

(c) The commissioner [~~board~~] shall adopt [~~propose~~] rules establishing performance standards for the Accountability System for Educator Preparation for accrediting educator preparation programs. At a minimum, performance standards must be based on Subsection (a). The commissioner [~~board~~] shall adopt [~~propose~~] rules for the sanction of educator preparation programs and shall annually review the accreditation status of each educator preparation program.

(d) The commissioner [~~executive director of the board~~] shall appoint an oversight team of educators to make recommendations and provide assistance to educator preparation programs that do not meet accreditation standards. If, after one year, an educator preparation program has not fulfilled the recommendations of the oversight team, the commissioner [~~executive director~~] shall appoint a person to administer and manage the operations of the program. If the program does not improve after two years, the commissioner [~~board~~] shall revoke the approval of the program to prepare educators for state certification.

SECTION \_\_\_\_.10. Sections 21.046(c) and (d), Education Code, are amended to read as follows:

(c) Because an effective principal is essential to school improvement, the commissioner [~~board~~] shall ensure that:

(1) each candidate for certification as a principal is of the highest caliber; and

(2) multi-level screening processes, validated comprehensive assessment programs, and flexible internships with successful mentors exist to determine whether a candidate for certification as a principal possesses the essential knowledge, skills, and leadership capabilities necessary for success.

(d) In creating the qualifications for certification as a principal, the commissioner [~~board~~] shall consider the knowledge, skills, and proficiencies for principals as developed by relevant national organizations and the State Board of Education.

SECTION \_\_\_\_.11. Section 21.048(a), Education Code, is amended to read as follows:

(a) The commissioner [~~board~~] shall adopt [~~propose~~] rules prescribing comprehensive examinations for each class of certificate issued by the board.

SECTION \_\_\_\_.12. Sections 21.0481, 21.0482, 21.0483, 21.0484, and 21.049, Education Code, are amended to read as follows:

Sec. 21.0481. MASTER READING TEACHER CERTIFICATION. (a) To ensure that there are teachers with special training to work with other teachers and with students in order to improve student reading performance, the commissioner [~~board~~] shall establish a master reading teacher certificate.

(b) The board shall issue a master reading teacher certificate to each eligible person.

(c) To be eligible for a master reading teacher certificate, a person must:

(1) hold a reading specialist certificate issued under this subchapter and satisfactorily complete a course of instruction as prescribed under Subdivision (2)(B); or

(2) hold a teaching certificate issued under this subchapter and:

(A) have at least three years of teaching experience;

(B) satisfactorily complete a knowledge-based and skills-based course of instruction on the science of teaching children to read that includes training in:

(i) effective reading instruction techniques, including effective techniques for students whose primary language is a language other than English;

(ii) identification of dyslexia and related reading disorders and effective reading instruction techniques for students with those disorders; and

(iii) effective professional peer mentoring techniques;

(C) perform satisfactorily on the master reading teacher certification examination prescribed by the commissioner [~~board~~]; and

(D) satisfy any other requirements prescribed by the commissioner [~~board~~].

Sec. 21.0482. MASTER MATHEMATICS TEACHER CERTIFICATION. (a) To ensure that there are teachers with special training to work with other teachers and with students in order to improve student mathematics performance, the commissioner [~~board~~] shall establish:

(1) a master mathematics teacher certificate to teach mathematics at elementary school grade levels;

(2) a master mathematics teacher certificate to teach mathematics at middle school grade levels; and

(3) a master mathematics teacher certificate to teach mathematics at high school grade levels.

(b) The board shall issue the appropriate master mathematics teacher certificate to each eligible person.

(c) To be eligible for a master mathematics teacher certificate, a person must:

(1) hold a teaching certificate issued under this subchapter;

(2) have at least three years of teaching experience;

(3) satisfactorily complete a knowledge-based course of instruction on the science of teaching children mathematics that includes training in mathematics instruction and professional peer mentoring techniques that, through scientific testing, have been proven effective;

(4) perform satisfactorily on the appropriate master mathematics teacher certification examination prescribed by the commissioner [board]; and

(5) satisfy any other requirements prescribed by the commissioner [board].

(d) The course of instruction prescribed under Subsection (c)(3) shall be developed by the commissioner [board] in consultation with mathematics and science faculty members at institutions of higher education.

Sec. 21.0483. MASTER TECHNOLOGY TEACHER CERTIFICATION. (a) To ensure that there are teachers with special training to work with other teachers and with students in order to increase the use of technology in each classroom, the commissioner [board] shall establish a master technology teacher certificate.

(b) The board shall issue a master technology teacher certificate to each eligible person.

(c) To be eligible for a master technology teacher certificate, a person must:

(1) hold a technology applications or Technology Education certificate issued under this subchapter, satisfactorily complete the course of instruction prescribed under Subdivision (2)(B), and satisfactorily perform on the examination prescribed under Subdivision (2)(C); or

(2) hold a teaching certificate issued under this subchapter and:

(A) have at least three years of teaching experience;

(B) satisfactorily complete a knowledge-based and skills-based course of instruction on interdisciplinary technology applications and the science of teaching technology that includes training in:

(i) effective technology instruction techniques, including applications designed to meet the educational needs of students with disabilities;

(ii) classroom teaching methodology that engages student learning through the integration of technology;

(iii) digital learning competencies, including Internet research, graphics, animation, website mastering, and video technologies;

(iv) curriculum models designed to prepare teachers to facilitate an active student learning environment; and

(v) effective professional peer mentoring techniques;

(C) satisfactorily perform on an examination developed in cooperation with the Telecommunications Infrastructure Fund Board and administered at the conclusion of the course of instruction prescribed under Paragraph (B); and

(D) satisfy any other requirements prescribed by the commissioner [~~board~~].

(d) The commissioner [~~board~~] may provide technology applications training courses under Subsection (c)(2)(B) in cooperation with:

- (1) regional education service centers; and
- (2) other public or private entities, including any state council on technology.

Sec. 21.0484. MASTER SCIENCE TEACHER CERTIFICATION. (a) To ensure that there are teachers with special training to work with other teachers and with students in order to improve student science performance, the commissioner [~~board~~] shall establish:

- (1) a master science teacher certificate to teach science at elementary school grade levels;
- (2) a master science teacher certificate to teach science at middle school grade levels; and
- (3) a master science teacher certificate to teach science at high school grade levels.

(b) The board shall issue the appropriate master science teacher certificate to each eligible person.

(c) To be eligible for a master science teacher certificate, a person must:

- (1) hold a teaching certificate issued under this subchapter;
- (2) have at least three years of teaching experience;
- (3) satisfactorily complete a knowledge-based course of instruction on the science of teaching children science that includes training in science instruction and professional peer mentoring techniques that, through scientific testing, have been proven effective;
- (4) perform satisfactorily on the appropriate master science teacher certification examination prescribed by the commissioner [~~board~~]; and
- (5) satisfy any other requirements prescribed by the commissioner [~~board~~].

(d) The course of instruction prescribed under Subsection (c)(3) shall be developed by the commissioner [~~board~~] in consultation with science faculty members at institutions of higher education.

Sec. 21.049. ALTERNATIVE CERTIFICATION. (a) To provide a continuing additional source of qualified educators, the commissioner [~~board~~] shall adopt [~~propose~~] rules providing for educator certification programs as an alternative to traditional educator preparation programs. The rules may not provide that a person may be certified under this section only if there is a demonstrated shortage of educators in a school district or subject area.

(b) The commissioner [~~board~~] may not require a person employed as a teacher in a disciplinary [~~an~~] alternative education program under Section 37.008 or a juvenile justice alternative education program under Section 37.011 for at least three years to complete an alternative educator certification program adopted under this section before taking the appropriate certification examination.

SECTION \_\_.13. Sections 21.050(a) and (b), Education Code, are amended to read as follows:



(a) A person who applies for a teaching certificate for which commissioner [~~board~~] rules require a bachelor's degree must possess a bachelor's degree received with an academic major or interdisciplinary academic major, including reading, other than education, that is related to the curriculum as prescribed under Subchapter A, Chapter 28.

(b) The commissioner [~~board~~] may not require more than 18 semester credit hours of education courses at the baccalaureate level for the granting of a teaching certificate. The commissioner [~~board~~] shall provide for a minimum number of semester credit hours of internship to be included in the hours needed for certification. The commissioner [~~board~~] may adopt [~~propose~~] rules requiring additional credit hours for certification in bilingual education, English as a second language, early childhood education, or special education.

SECTION \_\_.14. Section 21.051, Education Code, is amended to read as follows:

Sec. 21.051. OPTIONS FOR FIELD EXPERIENCE AND INTERNSHIPS. The commissioner [~~board~~] shall adopt [~~propose~~] rules providing flexible options for persons for any field experience or internship required for certification.

SECTION \_\_.15. Section 21.054(a), Education Code, is amended to read as follows:

(a) The commissioner [~~board~~] shall adopt [~~propose~~] rules establishing a process for identifying continuing education courses and programs that fulfill educators' continuing education requirements.

SECTION \_\_.16. Section 21.056, Education Code, is amended to read as follows:

Sec. 21.056. ADDITIONAL CERTIFICATION. The commissioner [~~board~~] by rule shall provide for a certified educator to qualify for additional certification to teach at a grade level or in a subject area not covered by the educator's certificate upon satisfactory completion of an examination or other assessment of the educator's qualification.

SECTION \_\_.17. Section 21.057(d), Education Code, is amended to read as follows:

(d) For purposes of this section, "inappropriately certified or uncertified teacher":

(1) includes:

(A) an individual serving on an emergency certificate issued under Section 21.041(b)(2); or

(B) an individual who does not hold any certificate or permit issued under this chapter and is not employed as specified by Subdivision (2)(E); and

(2) does not include an individual:

(A) who is a certified teacher assigned to teach a class or classes outside his or her area of certification, as determined by rules adopted [~~proposed~~] by the commissioner [~~board~~] in specifying the certificate required for each assignment;

(B) serving on a certificate issued due to a hearing impairment under Section 21.048;

(C) serving on a certificate issued pursuant to enrollment in an approved alternative certification program under Section 21.049;

(D) certified by another state or country and serving on a certificate issued under Section 21.052;

(E) serving on a school district teaching permit issued under Section 21.055; or

(F) employed under a waiver granted by the commissioner pursuant to Section 7.056.

SECTION \_\_.18. Section 21.058(d), Education Code, is amended to read as follows:

(d) A person whose certificate is revoked under Subsection (b) may reapply for a certificate in accordance with commissioner ~~[board]~~ rules.

SECTION \_\_.19. Section 21.105(c), Education Code, is amended to read as follows:

(c) On written complaint by the employing district and recommendation by the commissioner, the Educators' Professional Practices [State] Board ~~[for Educator Certification]~~ may impose sanctions against a teacher employed under a probationary contract who:

- (1) resigns;
- (2) fails without good cause to comply with Subsection (a) or (b); and
- (3) fails to perform the contract.

SECTION \_\_.20. Section 21.160(c), Education Code, is amended to read as follows:

(c) On written complaint by the employing district and recommendation by the commissioner, the Educators' Professional Practices [State] Board ~~[for Educator Certification]~~ may impose sanctions against a teacher who is employed under a continuing contract that obligates the district to employ the person for the following school year and who:

- (1) resigns;
- (2) fails without good cause to comply with Subsection (a) or (b); and
- (3) fails to perform the contract.

SECTION \_\_.21. Section 21.210(c), Education Code, is amended to read as follows:

(c) On written complaint by the employing district and recommendation by the commissioner, the Educators' Professional Practices [State] Board ~~[for Educator Certification]~~ may impose sanctions against a teacher who is employed under a term contract that obligates the district to employ the person for the following school year and who:

- (1) resigns;
- (2) fails without good cause to comply with Subsection (a) or (b); and
- (3) fails to perform the contract.

SECTION \_\_.22. Section 21.503, Education Code, is amended to read as follows:

Sec. 21.503. ELIGIBILITY. A person is eligible for the program if the person:

- (1) has served in the armed forces of the United States;
- (2) is honorably discharged, retired, or released from active duty on or after October 1, 1990, after at least six years of continuous active duty service immediately before the discharge, retirement, or release;

(3) has received a baccalaureate or advanced degree from a public or private institution of higher education accredited by a regional accrediting agency or group that is recognized by a nationally recognized accreditation board; and

(4) satisfies any other criteria for selection [~~jointly~~] prescribed by the agency [~~and the State Board for Educator Certification~~].

SECTION \_\_.23. Section 21.504(b), Education Code, is amended to read as follows:

(b) The agency [~~and the State Board for Educator Certification~~] shall distribute the applications and information regarding the program.

SECTION \_\_.24. Section 21.510(c), Education Code, is amended to read as follows:

(c) For purposes of this section, a participant in the program is not considered to be in violation of an agreement under Section 21.508 during any period in which the participant:

(1) is pursuing a full-time course of study related to the field of teaching at a public or private institution of higher education approved by the agency [~~State Board for Educator Certification~~];

(2) is serving on active duty as a member of the armed forces of the United States;

(3) is temporarily totally disabled for a period not to exceed three years as established by sworn affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed one year because of care required by a disabled spouse;

(5) is seeking and unable to find full-time employment as a teacher in a public elementary or secondary school for a single period not to exceed 27 months; or

(6) satisfies the provisions of any additional reimbursement exception adopted by the agency.

SECTION \_\_.25. Sections 21.551, 21.552, and 21.553, Education Code, are amended to read as follows:

Sec. 21.551. PURPOSES. The purposes of the alternative certification Teach for Texas Pilot Program are to:

(1) attract to the teaching profession persons who have expressed interest in teaching and to support the certification of those persons as teachers;

(2) recognize the importance of the certification process governed by the commissioner [~~State Board for Educator Certification~~] under Subchapter B, which requires verification of competence in subject area and professional knowledge and skills;

(3) encourage the creation and expansion of educator preparation programs that recognize the knowledge and skills gained through previous educational and work-related experiences and that are delivered in a manner that recognizes individual circumstances, including the need to remain employed full-time while enrolled in the Teach for Texas Pilot Program; and

(4) provide annual stipends to postbaccalaureate teacher certification candidates.

Sec. 21.552. PROGRAM ESTABLISHED. The commissioner [~~State Board for Educator Certification~~] by rule shall establish the Teach for Texas Pilot Program consistent with the purposes provided by Section 21.551.

Sec. 21.553. FINANCIAL INCENTIVES. (a) The pilot program must offer to participants financial incentives, including tuition assistance and loan forgiveness. In offering a financial incentive, the commissioner [~~State Board for Educator Certification~~] shall:

(1) require a contract between each participant who accepts a financial incentive and the agency [~~State Board for Educator Certification~~] under which the participant is obligated to teach in a public school in this state for a stated period after certification;

(2) provide financial incentives in proportion to the length of the period the participant is obligated by contract to teach after certification; and

(3) give special financial incentives to a participant who agrees in the contract to teach in an underserved area.

(b) Financial incentives may be paid only from funds appropriated specifically for that purpose and from gifts, grants, and donations solicited or accepted by the commissioner [~~State Board for Educator Certification~~] for that purpose.

(c) The commissioner [~~State Board for Educator Certification~~] shall adopt [~~propose~~] rules establishing criteria for awarding financial incentives under this section, including criteria for awarding financial incentives if there are more participants than funds available to provide the financial incentives.

SECTION \_\_.26. Section 21.604(b), Education Code, is amended to read as follows:

(b) The agency [~~and the State Board for Educator Certification~~] shall distribute the applications and information regarding the program.

SECTION \_\_.27. Section 21.609(c), Education Code, is amended to read as follows:

(c) For purposes of this section, a participant in the program is not considered to be in violation of an agreement under Section 21.607 during any period in which the participant:

(1) is pursuing a full-time course of study related to the field of teaching at an institution of higher education approved by the agency [~~State Board for Educator Certification~~];

(2) is serving on active duty as a member of the armed forces of the United States;

(3) is temporarily totally disabled for a period not to exceed three years as established by affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed one year because of care required by a disabled spouse;

(5) is seeking and unable to find full-time employment as a teacher in a public elementary or secondary school for a single period not to exceed 27 months; or

(6) satisfies the provisions of any additional reimbursement exception adopted by the agency.

SECTION \_\_.28. Section 22.0512(b), Education Code, is amended to read as follows:

(b) In this section, "disciplinary proceeding" means:

(1) an action brought by the school district employing a professional employee of a school district to discharge or suspend the employee or terminate or not renew the employee's term contract; or

(2) an action brought by the Educators' Professional Practices [State] Board [for Educator Certification] to enforce the educator's code of ethics adopted under Section 21.041(a-1) [~~21.041(b)(8)~~].

SECTION \_\_.29. Section 22.082, Education Code, is amended to read as follows:

Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE EDUCATION AUTHORITIES [~~BOARD FOR EDUCATOR CERTIFICATION~~]. (a) The agency [State Board for Educator Certification] shall obtain from any law enforcement or criminal justice agency all criminal history record information that relates to an applicant for or holder of a certificate issued under Subchapter B, Chapter 21.

(b) The Educators' Professional Practices Board may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a holder of a certificate issued under Subchapter B, Chapter 21.

SECTION \_\_.30. Section 22.083(d), Education Code, is amended to read as follows:

(d) The superintendent of a district or the director of an open-enrollment charter school, private school, regional education service center, or shared services arrangement shall promptly notify the Educators' Professional Practices [State] Board [for Educator Certification] in writing if the person obtains or has knowledge of information showing that an applicant for or holder of a certificate issued under Subchapter B, Chapter 21, has a reported criminal history. The board shall notify the commissioner of the reported criminal history.

SECTION \_\_.31. Sections 22.085 and 22.086, Education Code, are amended to read as follows:

Sec. 22.085. DISCHARGE OF EMPLOYEES CONVICTED OF OFFENSES. A school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement may discharge an employee if the district or school obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee did not disclose to the agency [State Board for Educator Certification] or the district, school, service center, or shared services arrangement. An employee discharged under this section is considered to have been discharged for misconduct for purposes of Section 207.044, Labor Code.

Sec. 22.086. LIABILITY FOR REPORTING OFFENSES. The agency, the Educators' Professional Practices [State] Board [for Educator Certification], a school district, an open-enrollment charter school, a private school, a regional education service center, a shared services arrangement, or an employee of the agency, board, district, school, service center, or shared services arrangement is not civilly or criminally liable for making a report required under this subchapter.

SECTION \_\_.32. Sections 29.061(a)-(c) and (e), Education Code, are amended to read as follows:

(a) The commissioner [~~State Board for Educator Certification~~] shall provide for the issuance of teaching certificates appropriate for bilingual education instruction to teachers who possess a speaking, reading, and writing ability in a language other than English in which bilingual education programs are offered and who meet the general requirements of Chapter 21. The commissioner [~~board~~] shall also provide for the issuance of teaching certificates appropriate for teaching English as a second language. The commissioner [~~board~~] may issue emergency endorsements in bilingual education and in teaching English as a second language.

(b) A teacher assigned to a bilingual education program must be appropriately certified under Subchapter B, Chapter 21, for bilingual education [~~by the board~~].

(c) A teacher assigned to an English as a second language or other special language program must be appropriately certified under Subchapter B, Chapter 21, for English as a second language [~~by the board~~].

(e) The agency [~~State Board for Educator Certification~~] and the Texas Higher Education Coordinating Board shall develop a comprehensive plan for meeting the teacher supply needs created by the programs outlined in this subchapter.

SECTION \_\_.33. Sections 33.002(b) and (c), Education Code, are amended to read as follows:

(b) A school district with 500 or more students enrolled in elementary school grades shall employ a counselor certified under the rules of the commissioner [~~State Board for Educator Certification~~] for each elementary school in the district. A school district shall employ at least one counselor for every 500 elementary school students in the district.

(c) A school district with fewer than 500 students enrolled in elementary school grades shall provide guidance and counseling services to elementary school students by:

(1) employing a part-time counselor certified under the rules of the commissioner [~~State Board for Educator Certification~~];

(2) employing a part-time teacher certified as a counselor under the rules of the commissioner [~~State Board for Educator Certification~~]; or

(3) entering into a shared services arrangement agreement with one or more school districts to share a counselor certified under the rules of the commissioner [~~State Board for Educator Certification~~].

SECTION \_\_.34. Section 37.007(g), Education Code, is amended to read as follows:

(g) A school district shall inform each teacher who has regular contact with a student through a classroom assignment of the conduct of a student who has engaged in any violation listed in this section. A teacher shall keep the information received in this subsection confidential. The Educators' Professional Practices [~~State~~] Board [~~for Educator Certification~~] on recommendation of the commissioner may revoke or suspend the certification of a teacher who intentionally violates this subsection.

SECTION \_\_.35. Section 61.0514, Education Code, is amended to read as follows:

Sec. 61.0514. INTEGRATED COURSEWORK. The board, with the cooperation and advice of the commissioner of education [~~State Board for Educator Certification~~], shall adopt educator preparation coursework guidelines that promote, to

the greatest extent practicable, the integration of subject matter knowledge with classroom teaching strategies and techniques in order to maximize the effectiveness and efficiency of coursework required for certification under Subchapter B, Chapter 21.

SECTION \_\_.36. Section 61.077, Education Code, as amended by Chapters 61, 818, and 820, Acts of the 78th Legislature, Regular Session, 2003, is reenacted and amended to read as follows:

Sec. 61.077. P-16 COUNCIL. (a) The P-16 Council shall advise the Texas Higher Education Coordinating Board and the State Board of Education in coordinating postsecondary career and technology activities, career and technology teacher education programs offered or proposed to be offered in the colleges and universities of this state, and other relevant matters, including those listed in Section 61.076.

(b) The council is composed of the commissioner of education, the commissioner of higher education, and the executive director of the Texas Workforce Commission~~], and the executive director of the State Board for Educator Certification]~~. Existing members of the council may appoint additional members as the members consider necessary. The position of presiding officer rotates among the members of the council in the order the members are listed in this subsection, with each member serving as the presiding officer for one two-year term.

(c) The council shall meet at least once each calendar quarter and may hold other meetings as necessary at the call of the presiding officer. Each member of the council or the member's designee shall make a report of the council's activities at least twice annually to the governing body of the member's agency or, in the case of the commissioner of education, to the State Board of Education.

(d) The purposes of this council shall include the following:

(1) to advise the two boards on the coordination of postsecondary career and technology education and the articulation between postsecondary career and technology education and secondary career and technology education;

(2) to facilitate the transfer of responsibilities for the administration of postsecondary career and technology education from the State Board of Education to the board in accordance with Section 111(a)(I) of the Carl D. Perkins Vocational Education Act, Public Law 98-524;

(3) to cooperate with the commissioner of higher education and the State Board of Education, when it acts as the State Board for Career and Technology Education, on the following:

(A) the transfer of federal funds to the board for allotment to eligible public postsecondary institutions of higher education;

(B) the career and technology education funding for projects and institutions as determined by the board when the State Board for Career and Technology Education is required by federal law to endorse such determinations;

(C) the development and updating of the state plan for career and technology education and the evaluation of programs, services, and activities of postsecondary career and technology education and such amendments to the state plan for career and technology education as may relate to postsecondary education;

(D) other matters related to postsecondary career and technology education; and

(E) the coordination of curricula, instructional programs, research, and other functions as appropriate, including areas listed in Section 61.076, school-to-work and school-to-college transition programs, and professional development activities;

(4) to advise the Texas Workforce Investment Council on educational policy issues related to workforce preparation; and

(5) to examine and make recommendations regarding the alignment of secondary and postsecondary education:

(A) curricula; and

(B) testing and assessment.

(e) Subsection (d)(5) does not require the council to establish curriculum or testing or assessment standards.

SECTION \_\_.37. Section 1001.254(a), Education Code, is amended to read as follows:

(a) A temporary driver education instructor license may be issued authorizing a person to teach or provide classroom driver education training if the person:

(1) has completed the educational requirements prescribed by Section 1001.253(d)(1);

(2) holds a Texas teaching certificate with an effective date before February 1, 1986;

(3) meets all license requirements, other than successful completion of the examination required under rules adopted by the commissioner [~~State Board for Educator Certification~~] to revalidate the teaching certificate; and

(4) demonstrates, in a manner prescribed by the commissioner, the intention to comply with the examination requirement at the first available opportunity.

SECTION \_\_\_\_\_.38. Article 15.27(a), Code of Criminal Procedure, is amended to read as follows:

(a) A law enforcement agency that arrests any person or refers a child to the office or official designated by the juvenile board who the agency believes is enrolled as a student in a public primary or secondary school, for an offense listed in Subsection (h), shall attempt to ascertain whether the person is so enrolled. If the law enforcement agency ascertains that the individual is enrolled as a student in a public primary or secondary school, the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of that arrest or referral within 24 hours after the arrest or referral is made, or on the next school day. If the law enforcement agency cannot ascertain whether the individual is enrolled as a student, the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is believed to be enrolled of that arrest or detention within 24 hours after the arrest or detention, or on the next school day. If the individual is a student, the superintendent shall promptly notify all instructional and support personnel who have responsibility for supervision of the student. All personnel shall keep the information received in this subsection confidential. The Educators' Professional Practices [~~State~~] Board [~~for Educator Certification~~] may revoke or suspend the certification of personnel who



intentionally violate this subsection. Within seven days after the date the oral notice is given, the law enforcement agency shall mail written notification, marked "PERSONAL and CONFIDENTIAL" on the mailing envelope, to the superintendent or the person designated by the superintendent. Both the oral and written notice shall contain sufficient details of the arrest or referral and the acts allegedly committed by the student to enable the superintendent or the superintendent's designee to determine whether there is a reasonable belief that the student has engaged in conduct defined as a felony offense by the Penal Code. The information contained in the notice may be considered by the superintendent or the superintendent's designee in making such a determination.

SECTION \_\_\_\_\_.39. Article 42.018(b), Code of Criminal Procedure, is amended to read as follows:

(b) Not later than the fifth day after the date a person who holds a certificate issued under Subchapter B, Chapter 21, Education Code, is convicted or granted deferred adjudication on the basis of an offense, the clerk of the court in which the conviction or deferred adjudication is entered shall provide to the Texas Education Agency and the Educators' Professional Practices [State] Board [for Educator Certification] written notice of the person's conviction or deferred adjudication, including the offense on which the conviction or deferred adjudication was based.

SECTION \_\_\_\_\_.40. Section 411.090, Government Code, is amended to read as follows:

Sec. 411.090. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE EDUCATIONAL AUTHORITIES [BOARD FOR EDUCATOR CERTIFICATION]. (a) The Texas Education Agency [State Board for Educator Certification] is entitled to obtain from the department any criminal history record information maintained by the department about a person who has applied to the commissioner [board] for a certificate or holds a certificate under Subchapter B, Chapter 21, Education Code.

(b) Criminal history record information obtained by the agency [board] under Subsection (a):

(1) may be used for any purpose related to the issuance or[;] denial[; suspension, or cancellation] of a certificate issued under Subchapter B, Chapter 21, Education Code [by the board];

(2) may be provided to the Educators' Professional Practices Board to be used for any purpose related to the suspension or revocation of a certificate issued under Subchapter B, Chapter 21, Education Code;

(3) may not be released to any other person except on court order or with the consent of the applicant for a certificate; and

(4) ~~(3)~~ shall be destroyed by the agency [board] after the information is used for the authorized purposes.

(c) The Educators' Professional Practices Board is entitled to obtain from the department any criminal history record information maintained by the department about a person who holds a certificate issued under Subchapter B, Chapter 21, Education Code.

(d) Criminal history record information obtained by the board under Subsection (c):

(1) may be used for any purpose related to the suspension or revocation of a certificate issued under Subchapter B, Chapter 21, Education Code;

(2) may be provided to the Texas Education Agency to be used for any purpose related to the issuance or denial of a certificate under Subchapter B, Chapter 21, Education Code;

(3) may not be released to any other person except on court order or with the consent of the holder of the certificate; and

(4) shall be destroyed by the board after the information is used for the authorized purposes.

SECTION \_\_\_\_ .41. Section 411.097(d), Government Code, is amended to read as follows:

(d) Criminal history record information obtained by a school district, charter school, private school, service center, commercial transportation company, or shared services arrangement under Subsection (a), (b), or (c) may not be released or disclosed to any person, other than the individual who is the subject of the information, the Texas Education Agency, the Educators' Professional Practices [State] Board [~~for Educator Certification~~], or the chief personnel officer of the transportation company, if the information is obtained under Subsection (a)(2).

SECTION \_\_\_\_ .42. Section 654.011(a), Government Code, is amended to read as follows:

(a) The position classification plan and the salary rates and provisions in the General Appropriations Act apply to all hourly, part-time, temporary, and regular, full-time salaried employments in the state departments, agencies, or judicial entities specified in the articles of the General Appropriations Act that appropriate money to:

(1) general government agencies;

(2) health and human services agencies;

(3) the judiciary, except for judges, district attorneys, and assistant district attorneys;

(4) public safety and criminal justice agencies;

(5) natural resources agencies;

(6) business and economic development agencies;

(7) regulatory agencies; and

(8) agencies of public education, but only the Texas Education Agency, the Texas School for the Blind and Visually Impaired, [~~the State Board for Educator Certification~~], the Telecommunications Infrastructure Fund, and the Texas School for the Deaf.

SECTION \_\_\_\_ .43. Section 821.001(7), Government Code, is amended to read as follows:

(7) "Employer" means any agents or agencies in the state responsible for public education, including the governing board of any school district created under the laws of this state, any county school board, the board of trustees, the board of regents of any college or university, or any other legally constituted board or agency of any public school, but excluding the State Board of Education and [;] the Texas Education Agency [~~and the State Board for Educator Certification~~].

SECTION \_\_\_\_ .44. Section 821.103, Government Code, is amended to read as follows:

Sec. 821.103. CANCELLATION OF TEACHER CERTIFICATE. (a) After receiving notice from the board of trustees of an offense under Section 821.101 and after complying with Chapter 2001 and rules adopted by the Educators' Professional Practices [State] Board [~~for Educator Certification~~], the board [~~State Board for Educator Certification~~] may cancel the teacher certificate of a person if the board [~~State Board for Educator Certification~~] determines that the person committed the offense.

(b) The Educators' Professional Practices [~~executive director of the State~~] Board [~~for Educator Certification~~] may enter into an agreed sanction.

(c) A criminal prosecution of an offender under Section 821.101 is not a prerequisite to action by the Educators' Professional Practices [State] Board [~~for Educator Certification or its executive director~~].

SECTION \_\_.45. Section 2054.352(a), Government Code, is reenacted and amended to conform to Chapters 553, 1216, and 1275, Acts of the 78th Legislature, Regular Session, 2003, and further amended to read as follows:

(a) The following licensing entities shall participate in the system established under Section 2054.353 [~~as added by Chapter 353, Acts of the 77th Legislature, Regular Session, 2001~~]:

- (1) State Board of Barber Examiners;
- (2) Texas Board of Chiropractic Examiners;
- (3) Texas Cosmetology Commission;
- (4) Court Reporters Certification Board;
- (5) State Board of Dental Examiners;
- (6) Texas Funeral Service Commission;
- (7) Texas Board of Professional Land Surveying;
- (8) Texas State Board of Medical Examiners;
- (9) Board of Nurse Examiners;
- (10) Texas Optometry Board;
- (11) Texas Structural Pest Control Board;
- (12) Texas State Board of Pharmacy;
- (13) Executive Council of Physical Therapy and Occupational Therapy Examiners;
- (14) Texas State Board of Plumbing Examiners;
- (15) Texas State Board of Podiatric Medical Examiners;
- (16) Board of Tax Professional Examiners;
- (17) Polygraph Examiners Board;
- (18) Texas State Board of Examiners of Psychologists;
- (19) State Board of Veterinary Medical Examiners;
- (20) Texas Real Estate Commission;
- (21) Texas Appraiser Licensing and Certification Board;
- (22) Texas Department of Licensing and Regulation;
- (23) [~~24~~] Texas State Board of Public Accountancy;
- (24) Texas Education Agency;
- (25) Educators' Professional Practices [State] Board [~~for Educator Certification~~];
- (26) Texas Board of Professional Engineers;

- (27) Texas Department of Health;
- (28) Texas Board of Architectural Examiners;
- (29) Texas Racing Commission;
- (30) Commission on Law Enforcement Officer Standards and Education;

and

- (31) Texas Commission on Private Security.

SECTION \_\_.46. Section 2165.104(c), Government Code, is amended to read as follows:

(c) To the extent possible without sacrificing critical public or client services, the commission may not allocate usable office space, as defined by the commission, to a state agency under Article I, II, V, VI, VII, or VIII of the General Appropriations Act or to the Texas Higher Education Coordinating Board, the Texas Education Agency, the Educators' Professional Practices [State] Board [for Educator Certification], the Telecommunications Infrastructure Fund Board, or the Office of Court Administration of the Texas Judicial System in an amount that exceeds an average of 135 square feet per agency employee for each agency site. To the extent that any of those agencies allocates its own usable office space, as defined by the commission, the agency shall allocate the space to achieve the required ratio. This subsection does not apply to:

- (1) an agency site at which there are so few employees that it is not practical to apply this subsection to that site, as determined by the commission; and
- (2) an agency site at which it is not practical to apply this subsection because of the site's type of space or use of space, as determined by the commission.

SECTION \_\_.47. Section 504.002(b), Occupations Code, is amended to read as follows:

(b) This chapter does not apply to an activity or service of a person who:

- (1) is employed as a counselor by a federal institution and is providing chemical dependency counseling within the scope of the person's employment;
- (2) except as provided by Section 504.057, is a student, intern, or trainee pursuing a supervised course of study in counseling at a regionally accredited institution of higher education or training institution, if the person:
  - (A) is designated as a "counselor intern"; and
  - (B) is engaging in the activity or providing the service as part of the course of study;
- (3) is not a resident of this state, if the person:
  - (A) engages in the activity or provides the service in this state for not more than 30 days during any year; and
  - (B) is authorized to engage in the activity or provide the service under the law of the state of the person's residence;
- (4) is a licensed physician, psychologist, professional counselor, or social worker;
- (5) is a religious leader of a congregation providing pastoral chemical dependency counseling within the scope of the person's duties;
- (6) is working for or providing counseling with a program exempt under Subchapter C, Chapter 464, Health and Safety Code; or
- (7) is a school counselor certified under Subchapter B, Chapter 21, Education Code [by the State Board for Educator Certification].

SECTION \_\_.48. Sections 21.035(b) and (c), 21.039, 21.040, and 21.042, Education Code, are repealed.

SECTION \_\_.49. (a) The State Board for Educator Certification is abolished, and all powers, duties, personnel, property, assets, and obligations of the board are transferred to the Educators' Professional Practices Board and the Texas Education Agency, as determined appropriate by the commissioner of education. The validity of a prior action of the State Board for Educator Certification is not affected by the abolishment and any pending activities of the State Board for Educator Certification shall be deemed to have continued without interruption or material change.

(b) The powers and duties of the Educators' Professional Practices Board, as created by this Act, shall continue to be exercised by the State Board for Educator Certification until the initial appointees of the Educators' Professional Practices Board assume their offices, which may not be later than January 1, 2006.

(c) All rules of the State Board for Educator Certification relating to a transferred power or duty remain in effect as rules of the Educators' Professional Practices Board or commissioner of education, as appropriate, until amended or repealed by the board or commissioner.

(d) A contested case, rulemaking procedure, program, test, fee, contract, review, evaluation, sanction, act, or decision of the State Board for Educator Certification that is pending, completed, or in effect on the effective date of this Act shall be deemed that of the commissioner of education or the Educators' Professional Practices Board to the extent authorized by Subchapter B, Chapter 21, Education Code, as amended by this Act, or other law, until and unless a change is expressly made by the commissioner or the board, as appropriate.

(e) As soon as practicable after the effective date of this article and not later than November 1, 2005, the commissioner shall make initial appointments to the Educators' Professional Practices Board. In making the initial appointments, the commissioner shall designate four members to serve terms expiring February 1, 2007, four members to serve terms expiring February 1, 2009, and three members to serve terms expiring February 1, 2011.

(f) A person who holds a certificate issued under Subchapter B, Chapter 21, Education Code, as it existed on January 1, 2005, may continue to practice under that certificate until the certificate is renewed or replaced under Subchapter B, Chapter 21, Education Code, as amended by this article.

(g) The code of ethics adopted under Subchapter B, Chapter 21, Education Code, by the State Board for Educator Certification and in effect on the effective date of this article remains in effect until superseded by rules of the Educators' Professional Practices Board.

The amendment to **CSHB 2** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 73 except as follows:

Nays: Lucio.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 2** as amended was passed to third reading by the following vote: Yeas 27, Nays 4.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Barrientos, Ellis, Gallegos, Shapleigh.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Staples, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Barrientos, Ellis, Gallegos, Shapleigh, Wentworth.

**Reason for Vote**

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSHB 2**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSHB 2** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth  
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 27, Nays 4.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Barrientos, Ellis, Gallegos, Shapleigh.

**NOTICE GIVEN FOR  
LOCAL AND UNCONTESTED CALENDAR**

Senator Harris announced that a Local and Uncontested Calendar had been furnished to each Member of the Senate. He then gave notice that the Local and Uncontested Calendar Session would be held at 10:00 a.m. tomorrow and that all bills and resolutions would be considered on second and third reading in the order in which they were listed.

**SENATE RULE 11.13 SUSPENDED  
(Consideration of Bills in Committees)**

On motion of Senator Harris and by unanimous consent, Senate Rule 11.13 was suspended to grant all committees permission to meet while the Senate is meeting tomorrow.

**SENATE RULES SUSPENDED  
(Posting Rules)**

On motion of Senator Nelson and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Health and Human Services might meet and consider the following bills tomorrow:

**SB 518, HB 1685.**

**SENATE RULE 11.18(a) SUSPENDED  
(Public Hearings)**

On motion of Senator Ogden and by unanimous consent, Senate Rule 11.18(a) was suspended in order that the Committee on Finance might consider **SB 222** tomorrow.

**SENATE RULES SUSPENDED  
(Posting Rules)**

On motion of Senator Madla and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Intergovernmental Relations might meet and consider the following bills and resolution tomorrow:

**SB 1894, SB 1896, HB 132, HB 150, HB 167, HB 233, HB 265, HB 525, HB 571, HB 585, HB 639, HB 950, HB 961, HB 1213, HB 1267, HB 1455, HB 1587, HB 1599, HB 1606, HB 1835, HB 1937, HB 2374, HB 2457, HB 2491, HB 2584, HB 2587, HCR 93.**

**SENATE RULES SUSPENDED  
(Posting Rules)**

On motion of Senator Duncan and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on State Affairs might meet and consider the following bills tomorrow:

**SB 390, SB 494, SB 1691, SB 1812, HB 758.**

**SENATE RULES SUSPENDED**  
**(Posting Rules)**

On motion of Senator Shapiro and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Education might meet and consider **HB 479** tomorrow.

**SENATE RULE 11.10(a) SUSPENDED**  
**(Public Notice of Committee Meetings)**

On motion of Senator Wentworth and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Committee on Jurisprudence might meet tomorrow.

**MOTION TO ADJOURN**

On motion of Senator Armbrister and by unanimous consent, the Senate at 10:31 p.m. agreed to adjourn, upon conclusion of the Local and Uncontested Calendar Session, until 11:00 a.m. tomorrow.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolutions**

**SR 848** by Deuell and Averitt, In memory of Jimmie Doyle Birdwell of Ferris.

**SR 850** by Wentworth and Van de Putte, In memory of Adele Cherry Carnahan of San Antonio.

**SR 855** by Brimer, In memory of Donald R. Tharp of Euless.

**SR 858** by West, In memory of DarNell Gerard Pemberton of Dallas.

**SR 863** by Ellis, In memory of Gertrude Kirkwood Tapscott of Prairie View.

**SR 866** by Barrientos, In memory of Wallace H. Scott, Jr., of Austin.

**SR 868** by Barrientos, In memory of Dorothy Nell Turner of Austin.

**SR 869** by Barrientos, In memory of Mary Lou McLain of Austin.

**HCR 2** (Seliger), In memory of U.S. Army Sergeant Brian Baker.

**Congratulatory Resolutions**

**SR 854** by Ellis, Recognizing the Dramatic Order of Knights and Princesses of Omar of the Grand Court Order of Calanthe Jurisdiction of Texas on the occasion of their state convention.

**SR 856** by Brimer, Recognizing members of the 1964 and 1965 classes of Westbury High School in Houston on the occasion of their reunion.

**SR 857** by Whitmire, Congratulating Meryl-Ina Samantha Kizzee for earning a Girl Scout Gold Award.

**SR 859** by West, Commending Edgar "Trey" Clark III for his accomplishments.

**SR 860** by Wentworth, Recognizing Altha Marie and Cecil C. Ramsey of Dripping Springs on the occasion of their 75th wedding anniversary.



**SR 862** by Ellis, Recognizing the National Baptist Congress of Christian Education on the occasion of its 100th annual session.

**SR 864** by Ellis, Recognizing the Houston Lawyers Association on the occasion of its 50th anniversary.

**SR 865** by Ellis, Recognizing Vanity Cherie McMurtry on the occasion of her graduation from The University of Texas at Austin.

**SR 867** by Barrientos, Recognizing The County Line restaurant on the occasion of its 30th anniversary.

**SR 871** by West, Recognizing Joseph L. LaManna for his service to Dallas Southwest Osteopathic Physicians, Incorporated.

**HCR 120** (Shapleigh), Honoring Louis, Ben, Bill, and Rick Bolanos for their valiant service in this country's behalf.

**HCR 173** (Hinojosa), Recognizing Edwards Abstract and Title Company of Hidalgo County on the company's 125th anniversary.

#### **Official Designation Resolution**

**SR 870** by West, Recognizing June 20 through 24 as National Healthcare Risk Management Week.

#### **RECESS**

On motion of Senator Armbrister, the Senate at 10:32 p.m. recessed until 10:00 a.m. tomorrow for the Local and Uncontested Calendar Session.

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### **APPENDIX**

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#### **COMMITTEE REPORTS**

The following committee reports were received by the Secretary of the Senate in the order listed:

May 11, 2005

NATURAL RESOURCES — **CSHB 1705**

FINANCE — **CSSB 12, CSSB 1020, CSSB 1351, CSSB 1605, CSSB 1606, CSSB 1652**

STATE AFFAIRS — **CSHB 976**

GOVERNMENT ORGANIZATION — **CSHB 2466**

TRANSPORTATION AND HOMELAND SECURITY — **HB 341, HB 805, HB 962, HB 1136, HB 1350, HB 1645, HB 1735, HB 1814, HB 2659**

NATURAL RESOURCES — **CSSB 1891**

TRANSPORTATION AND HOMELAND SECURITY — **CSHB 55, CSHB 540, CSHB 874, CSHB 1339, CSHB 2921**

BUSINESS AND COMMERCE — **CSSB 1730, HB 808, CSHB 1045, CSHB 1734, CSHB 1938, HB 2179, CSHB 2266**

**SENT TO SECRETARY OF STATE**

May 11, 2005

**SJR 7, SJR 17, SJR 21, SJR 40**

**SENT TO GOVERNOR**

May 11, 2005

**SB 286, SB 489, SB 599, SB 728, SB 1211, SB 1224, SB 1428**