

By: Luna

H.B. No. 85

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to bilingual education and special language programs in  
3 public schools.

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

5 SECTION 1. Section 28.006(j), Education Code, is amended to  
6 read as follows:

7 (j) No more than 15 percent of the funds certified by the  
8 commissioner under Subsection (i) may be spent on indirect costs.  
9 The commissioner shall evaluate the programs that fail to meet the  
10 standard of performance under Section 39.051(b)(8) [~~39.051(b)(7)~~]  
11 and may implement sanctions under Subchapter G, Chapter 39. The  
12 commissioner may audit the expenditures of funds appropriated for  
13 purposes of this section. The use of the funds appropriated for  
14 purposes of this section shall be verified as part of the district  
15 audit under Section 44.008.

16 SECTION 2. Section 29.056(g), Education Code, is amended to  
17 read as follows:

18 (g) A district may transfer a student of limited English  
19 proficiency out of a bilingual education or special language  
20 program for the first time or a subsequent time if the student is  
21 able to participate equally in a regular all-English instructional  
22 program as determined by:

23 (1) tests administered at the end of each school year  
24 to determine the extent to which the student has developed oral and

1 written language proficiency and specific language skills in both  
2 the student's primary language and English;

3 (2) an achievement score at or above the 40th  
4 percentile in the reading and language arts sections of an English  
5 standardized test approved by the agency; and

6 (3) other indications of a student's overall progress,  
7 including criterion-referenced test scores, subjective teacher  
8 evaluation, and parental evaluation.

9 SECTION 3. Subchapter B, Chapter 29, Education Code, is  
10 amended by adding Section 29.0561 to read as follows:

11 Sec. 29.0561. CONSIDERATION; REENROLLMENT. (a) For the  
12 first two school years after a student is transferred out of a  
13 bilingual education or special language program under Section  
14 29.056(g), the language proficiency assessment committee shall  
15 consider:

16 (1) the total amount of time the student has been  
17 enrolled in a bilingual education or special language program;

18 (2) the student's grades each grading period in each  
19 subject in the foundation curriculum under Section 28.002(a)(1);

20 (3) the student's performance on each assessment  
21 instrument required under Section 39.023(a) or (c);

22 (4) the number of credits toward high school  
23 graduation the student has earned, as applicable; and

24 (5) any disciplinary actions taken against the student  
25 under Subchapter A, Chapter 37.

26 (b) If, during any grading period during the first two  
27 school years after a student is transferred out of a bilingual

1 education or special language program under Section 29.056(g), the  
2 student earns a failing grade in a subject in the foundation  
3 curriculum under Section 28.002(a)(1), the language proficiency  
4 assessment committee shall reevaluate the student to determine if  
5 the student should reenroll in the bilingual education or special  
6 language program. Based on the reevaluation, the committee may  
7 arrange for intensive instruction for the student or may reenroll  
8 the student in the program.

9 SECTION 4. Subchapter B, Chapter 29, Education Code, is  
10 amended by adding Section 29.065 to read as follows:

11 Sec. 29.065. MEASURE OF PROGRESS TOWARD ENGLISH LANGUAGE  
12 PROFICIENCY. (a) The commissioner by rule shall develop a  
13 longitudinal measure of progress toward English language  
14 proficiency under which a student of limited English proficiency is  
15 evaluated from the time the student enters public school until, for  
16 two consecutive school years, the student scores at a specific  
17 level determined by the commissioner on the reading assessment  
18 instrument under Section 39.023(a)(2) or the English language arts  
19 assessment instrument under Section 39.023(a)(4), as applicable.  
20 The commissioner shall:

21 (1) as part of the measure of progress, include  
22 student advancement from one proficiency level to a higher level  
23 under the reading proficiency in English assessment system  
24 developed under Section 39.027(e) and from the highest level under  
25 that assessment system to the level determined by the commissioner  
26 under this section on the reading assessment instrument under  
27 Section 39.023(a)(2) or the English language arts assessment

1 instrument under Section 39.023(a)(4), as applicable; and  
2 (2) to the extent practicable in developing the  
3 measure of progress, use applicable research and analysis done in  
4 developing an annual measurable achievement objective as required  
5 by Section 3122, No Child Left Behind Act of 2001 (20 U.S.C. Section  
6 6842).

7 (b) The commissioner shall implement this section not later  
8 than May 1, 2007. This subsection expires January 1, 2008.

9 SECTION 5. Section 39.051(b), Education Code, as amended by  
10 Chapters 433 and 805, Acts of the 78th Legislature, Regular  
11 Session, 2003, is reenacted and amended to read as follows:

12 (b) Performance on the indicators adopted under this  
13 section shall be compared to state-established standards. The  
14 degree of change from one school year to the next in performance on  
15 each indicator adopted under this section shall also be considered.  
16 The indicators must be based on information that is disaggregated  
17 by race, ethnicity, gender, and socioeconomic status and must  
18 include:

19 (1) the results of assessment instruments required  
20 under Sections 39.023(a), (c), and (1), aggregated by grade level  
21 and subject area;

22 (2) dropout rates, including dropout rates and  
23 district completion rates for grade levels 9 through 12, computed  
24 in accordance with standards and definitions adopted by the  
25 National Center for Education Statistics of the United States  
26 Department of Education;

27 (3) high school graduation rates, computed in

1 accordance with standards and definitions adopted in compliance  
2 with the [~~federal~~] No Child Left Behind Act of 2001 (Pub. L. No.  
3 107-110);

4 (4) student attendance rates;

5 (5) the percentage of graduating students who attain  
6 scores on the secondary exit-level assessment instruments required  
7 under Subchapter B that are equivalent to a passing score on the  
8 assessment [~~test~~] instrument required under Section 51.3062  
9 [~~51.306~~];

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

13 (7) the results of the Scholastic Assessment Test  
14 (SAT), the American College Test (ACT), articulated postsecondary  
15 degree programs described by Section 61.852, and certified  
16 workforce training programs described by Chapter 311, Labor Code;

17 (8) the percentage of students, aggregated by grade  
18 level, provided accelerated instruction under Section 28.0211(c),  
19 the results of assessments administered under that section, the  
20 percentage of students promoted through the grade placement  
21 committee process under Section 28.0211, the subject of the  
22 assessment instrument on which each student failed to perform  
23 satisfactorily, and the performance of those students in the school  
24 year following that promotion on the assessment instruments  
25 required under Section 39.023;

26 (9) for students who have failed to perform  
27 satisfactorily on an assessment instrument required under Section

1 39.023(a) or (c), the numerical progress of those students on  
2 subsequent assessment instruments required under those sections,  
3 aggregated by grade level and subject area;

4 (10) the percentage of students exempted, by exemption  
5 category, from the assessment program generally applicable under  
6 this chapter; ~~and~~

7 (11) the percentage of students of limited English  
8 proficiency exempted from the administration of an assessment  
9 instrument under Sections 39.027(a)(3) and (4);

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

13 (13) for students of limited English proficiency, as  
14 defined by Section 29.052, a measure of progress toward English  
15 language proficiency, as determined by the commissioner, including  
16 the student's performance after transferring out of a bilingual  
17 education program or instruction in English as a second language.

18 SECTION 6. Section 39.051(d), Education Code, is amended to  
19 read as follows:

20 (d) Annually, the commissioner shall define exemplary,  
21 recognized, and unacceptable performance for each academic  
22 excellence indicator included under Subsections (b)(1) through (7)  
23 ~~[(6)]~~ and shall project the standards for each of those levels of  
24 performance for succeeding years. For the indicator under  
25 Subsection (b)(8) ~~[(b)(7)]~~, the commissioner shall define  
26 exemplary, recognized, and unacceptable performance based on  
27 student performance for the period covering both the current and

1 preceding academic years. In defining exemplary, recognized, and  
2 unacceptable performance for the indicators under Subsections  
3 (b)(2) and (4) [~~(3)~~], the commissioner may not consider as a dropout  
4 or as a student who has failed to attend school a student whose  
5 failure to attend school results from:

6 (1) the student's expulsion under Section 37.007; and

7 (2) as applicable:

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

11 (B) conviction of and sentencing for an offense  
12 under the Penal Code.

13 SECTION 7. Section 39.052(b), Education Code, is amended to  
14 read as follows:

15 (b) The report card shall include the following  
16 information:

17 (1) where applicable, the academic excellence  
18 indicators adopted under Sections 39.051(b)(1) through (10) [~~(9)~~];

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

20 (3) the administrative and instructional costs per  
21 student, computed in a manner consistent with Section 44.0071; and

22 (4) the district's instructional expenditures ratio  
23 and instructional employees ratio computed under Section 44.0071,  
24 and the statewide average of those ratios, as determined by the  
25 commissioner.

26 SECTION 8. Sections 39.072(b) and (c), Education Code, are  
27 amended to read as follows:

1           (b) The academic excellence indicators adopted under  
2 Sections 39.051(b)(1) through (8) [~~(7)~~] and the district's current  
3 special education compliance status with the agency shall be the  
4 main considerations of the agency in the rating of the district  
5 under this section. Additional criteria in the rules may include  
6 consideration of:

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

10           (A) reporting data through the Public Education  
11 Information Management System (PEIMS);

12           (B) the high school graduation requirements  
13 under Section 28.025; or

14           (C) an item listed in Sections  
15 7.056(e)(3)(C)-(I) that applies to the district;

16           (2) the effectiveness of the district's programs for  
17 special populations; and

18           (3) the effectiveness of the district's career and  
19 technology programs.

20           (c) The agency shall evaluate against state standards and  
21 shall, not later than August 1 of each year, report the performance  
22 of each campus in a district and each open-enrollment charter  
23 school on the basis of the campus's performance on the indicators  
24 adopted under Sections 39.051(b)(1) through (8) [~~(7)~~].  
25 Consideration of the effectiveness of district programs under  
26 Subsection (b)(2) or (3) must be based on data collected through the  
27 Public Education Information Management System for purposes of

1 accountability under this chapter and include the results of  
2 assessments required under Section 39.023.

3 SECTION 9. Sections 39.073(a) and (b), Education Code, are  
4 amended to read as follows:

5 (a) The agency shall annually review the performance of each  
6 district and campus on the indicators adopted under Sections  
7 39.051(b)(1) through (8) [~~(7)~~] and determine if a change in the  
8 accreditation status of the district is warranted. The  
9 commissioner may determine how all indicators adopted under Section  
10 39.051(b) may be used to determine accountability ratings and to  
11 select districts and campuses for acknowledgment.

12 (b) Each annual review shall include an analysis of the  
13 indicators under Sections 39.051(b)(1) through (8) [~~(6)~~] to  
14 determine district and campus performance in relation to:

- 15 (1) standards established for each indicator;  
16 (2) required improvement as defined under Section  
17 39.051(c); and  
18 (3) comparable improvement as defined by Section  
19 39.051(c).

20 SECTION 10. Section 39.074(e), Education Code, is amended  
21 to read as follows:

22 (e) If an annual review indicates low performance on one or  
23 more of the indicators under Sections 39.051(b)(1) through (8)  
24 [~~(7)~~] of one or more campuses in a district, the agency may conduct  
25 an on-site evaluation of those campuses only.

26 SECTION 11. Section 29.056(h), Education Code, is repealed.

27 SECTION 12. Except as otherwise provided by this Act, this

1 Act applies beginning with the 2006-2007 school year.

2 SECTION 13. This Act takes effect immediately if it  
3 receives a vote of two-thirds of all the members elected to each  
4 house, as provided by Section 39, Article III, Texas Constitution.  
5 If this Act does not receive the vote necessary for immediate  
6 effect, this Act takes effect on the 91st day after the last day of  
7 the legislative session.