

By: Luna

H.B. No. 779

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)(9) [~~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) satisfactory performance on the reading or English  
4 language arts assessment instrument, as applicable, under Section  
5 39.023(a), with the assessment instrument administered in English,  
6 or, if the student is enrolled in the first or second grade, an  
7 achievement score at or above the 40th percentile in the reading and  
8 language arts sections of an English standardized test approved by  
9 the agency; and

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

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

15 Sec. 29.0561. CONSIDERATION; REENROLLMENT. (a) For the  
16 first two school years after a student is transferred out of a  
17 bilingual education or special language program under Section  
18 29.056(g), the language proficiency assessment committee shall  
19 consider:

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

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

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

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

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

3           (b) If, during any grading period during the first two  
4 school years after a student is transferred out of a bilingual  
5 education or special language program under Section 29.056(g), the  
6 student earns a failing grade in a subject in the foundation  
7 curriculum under Section 28.002(a)(1), the language proficiency  
8 assessment committee shall reevaluate the student to determine if  
9 the student should reenroll in the bilingual education or special  
10 language program. Based on the reevaluation, the committee may  
11 arrange for intensive instruction for the student or may reenroll  
12 the student in the program.

13           SECTION 4. Subchapter B, Chapter 29, Education Code, is  
14 amended by adding Sections 29.065 and 29.066 to read as follows:

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

24           (1) as part of the measure of progress, include  
25 student advancement from one proficiency level to a higher level  
26 under the reading proficiency in English assessment system  
27 developed under Section 39.027(e) and from the highest level under

1 that assessment system to the level determined by the commissioner  
2 under this section on the reading or English language arts  
3 assessment instrument, as applicable, under Section 39.023(a); and  
4 (2) to the extent practicable in developing the  
5 measure of progress, use applicable research and analysis done in  
6 developing an annual measurable achievement objective as required  
7 by Section 3122, No Child Left Behind Act of 2001 (20 U.S.C. Section  
8 6842).

9 Sec. 29.066. BEST PRACTICES. Based on the measure of  
10 progress toward English language proficiency under Section 29.065,  
11 the commissioner shall determine which school districts offer the  
12 most effective bilingual education and special language programs.  
13 Using funds appropriated for that purpose, the commissioner shall  
14 determine the practices those districts use that result in student  
15 progress toward English language proficiency and distribute  
16 information concerning those practices to each school district that  
17 provides a bilingual education or special language program.

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

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

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

4 (2) dropout rates, including dropout rates and  
5 district completion rates for grade levels 9 through 12, computed  
6 in accordance with standards and definitions adopted by the  
7 National Center for Education Statistics of the United States  
8 Department of Education;

9 (3) high school graduation rates, computed in  
10 accordance with standards and definitions adopted in compliance  
11 with the federal No Child Left Behind Act of 2001 (Pub. L. No.  
12 107-110);

13 (4) student attendance rates;

14 (5) the percentage of graduating students who attain  
15 scores on the secondary exit-level assessment instruments required  
16 under Subchapter B that are equivalent to a passing score on the  
17 assessment [~~test~~] instrument required under Section 51.3062  
18 [~~51.306~~];

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

22 (7) the measure of progress toward English language  
23 proficiency under Section 29.065, for students of limited English  
24 proficiency, as defined by Section 29.052;

25 (8) the results of the Scholastic Assessment Test  
26 (SAT), the American College Test (ACT), articulated postsecondary  
27 degree programs described by Section 61.852, and certified

1 workforce training programs described by Chapter 311, Labor Code;

2 (9) [~~(8)~~] the percentage of students, aggregated by  
3 grade level, provided accelerated instruction under Section  
4 28.0211(c), the results of assessments administered under that  
5 section, the percentage of students promoted through the grade  
6 placement committee process under Section 28.0211, the subject of  
7 the assessment instrument on which each student failed to perform  
8 satisfactorily, and the performance of those students in the school  
9 year following that promotion on the assessment instruments  
10 required under Section 39.023;

11 (10) [~~(9)~~] for students who have failed to perform  
12 satisfactorily on an assessment instrument required under Section  
13 39.023(a) or (c), the numerical progress of those students on  
14 subsequent assessment instruments required under those sections,  
15 aggregated by grade level and subject area;

16 (11) [~~(10)~~] the percentage of students exempted, by  
17 exemption category, from the assessment program generally  
18 applicable under this chapter; ~~and~~

19 (12) [~~(11)~~] the percentage of students of limited  
20 English proficiency exempted from the administration of an  
21 assessment instrument under Sections 39.027(a)(3) and (4);

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

25 (14) dropout rates for students who have dropped out  
26 of school after being enrolled at any time in a bilingual education  
27 or special language program under Subchapter B, Chapter 29.

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

3 (d) Annually, the commissioner shall define exemplary,  
4 recognized, and unacceptable performance for each academic  
5 excellence indicator included under Subsections (b)(1) through (8)  
6 [~~(6)~~] and shall project the standards for each of those levels of  
7 performance for succeeding years. For the indicator under  
8 Subsection (b)(9) [~~(b)(7)~~], the commissioner shall define  
9 exemplary, recognized, and unacceptable performance based on  
10 student performance for the period covering both the current and  
11 preceding academic years. In defining exemplary, recognized, and  
12 unacceptable performance for the indicators under Subsections  
13 (b)(2) and (4) [~~(3)~~], the commissioner may not consider as a dropout  
14 or as a student who has failed to attend school a student whose  
15 failure to attend school results from:

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

17 (2) as applicable:

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

21 (B) conviction of and sentencing for an offense  
22 under the Penal Code.

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

25 (b) The report card shall include the following  
26 information:

27 (1) where applicable, the academic excellence

1 indicators adopted under Sections 39.051(b)(1) through (11) [~~(9)~~];  
2 (2) average class size by grade level and subject;  
3 (3) the administrative and instructional costs per  
4 student, computed in a manner consistent with Section 44.0071; and  
5 (4) the district's instructional expenditures ratio  
6 and instructional employees ratio computed under Section 44.0071,  
7 and the statewide average of those ratios, as determined by the  
8 commissioner.

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

11 (b) The academic excellence indicators adopted under  
12 Sections 39.051(b)(1) through (9) [~~(7)~~] and the district's current  
13 special education compliance status with the agency shall be the  
14 main considerations of the agency in the rating of the district  
15 under this section. Additional criteria in the rules may include  
16 consideration of:

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

20 (A) reporting data through the Public Education  
21 Information Management System (PEIMS);

22 (B) the high school graduation requirements  
23 under Section 28.025; or

24 (C) an item listed in Sections  
25 7.056(e)(3)(C)-(I) that applies to the district;

26 (2) the effectiveness of the district's programs for  
27 special populations; and



1           (3) the effectiveness of the district's career and  
2 technology programs.

3           (c) The agency shall evaluate against state standards and  
4 shall, not later than August 1 of each year, report the performance  
5 of each campus in a district and each open-enrollment charter  
6 school on the basis of the campus's performance on the indicators  
7 adopted under Sections 39.051(b)(1) through (9) [~~(7)~~].  
8 Consideration of the effectiveness of district programs under  
9 Subsection (b)(2) or (3) must be based on data collected through the  
10 Public Education Information Management System for purposes of  
11 accountability under this chapter and include the results of  
12 assessments required under Section 39.023.

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

15           (a) The agency shall annually review the performance of each  
16 district and campus on the indicators adopted under Sections  
17 39.051(b)(1) through (9) [~~(7)~~] and determine if a change in the  
18 accreditation status of the district is warranted. The  
19 commissioner may determine how all indicators adopted under Section  
20 39.051(b) may be used to determine accountability ratings and to  
21 select districts and campuses for acknowledgment.

22           (b) Each annual review shall include an analysis of the  
23 indicators under Sections 39.051(b)(1) through (9) [~~(6)~~] to  
24 determine district and campus performance in relation to:

- 25                   (1) standards established for each indicator;  
26                   (2) required improvement as defined under Section  
27 39.051(c); and

1           (3) comparable improvement as defined by Section  
2 39.051(c).

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

5           (e) If an annual review indicates low performance on one or  
6 more of the indicators under Sections 39.051(b)(1) through (9)  
7 [~~(7)~~] of one or more campuses in a district, the agency may conduct  
8 an on-site evaluation of those campuses only.

9           SECTION 11. Section 42.153(a), Education Code, is amended  
10 to read as follows:

11           (a) For each student in average daily attendance in a  
12 bilingual education or special language program under Subchapter B,  
13 Chapter 29, a district is entitled to an annual allotment equal to  
14 the adjusted basic allotment multiplied by 0.4 [~~0.1~~].

15           SECTION 12. Section 29.056(h), Education Code, is repealed.

16           SECTION 13. (a) Not later than the 2006-2007 school year,  
17 the Texas Education Agency shall collect information concerning the  
18 measure of progress toward English language proficiency for  
19 purposes of Section 39.051(b)(7), Education Code, as amended by  
20 this Act, and the dropout rates for purposes of Section  
21 39.051(b)(14), Education Code, as added by this Act.

22           (b) Not later than the 2007-2008 school year, the Texas  
23 Education Agency shall include the measure of progress toward  
24 English language proficiency under Section 39.051(b)(7), as  
25 amended by this Act, in evaluating the performance of school  
26 districts, campuses, and open-enrollment charter schools under  
27 Subchapter D, Chapter 39, Education Code.

1           SECTION 14. This Act applies beginning with the 2005-2006  
2 school year.

3           SECTION 15. This Act takes effect September 1, 2005.