

1-1 By: Eissler, et al. (Senate Sponsor - Shapiro) H.B. No. 2238
1-2 (In the Senate - Received from the House May 10, 2007;
1-3 May 14, 2007, read first time and referred to Committee on
1-4 Education; May 21, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 May 21, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2238 By: Shapiro

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the establishment of the Texas Education Data System
1-11 (TEDS).

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Title 1, Education Code, is amended by adding
1-14 Chapter 2 to read as follows:

1-15 CHAPTER 2. TEXAS EDUCATION DATA SYSTEM (TEDS)

1-16 SUBCHAPTER A. GENERAL PROVISIONS

1-17 Sec. 2.001. DEFINITIONS. In this chapter:

1-18 (1) "Board" means the system board established under
1-19 Section 2.051.

1-20 (2) "Charter school" means any school or program that
1-21 is operating under a charter authorized by Chapter 12 or other law,
1-22 including:

1-23 (A) a home-rule school district under Subchapter
1-24 B, Chapter 12;

1-25 (B) a campus or campus program under Subchapter
1-26 C, Chapter 12;

1-27 (C) an open-enrollment charter school under
1-28 Subchapter D, Chapter 12; and

1-29 (D) a college or university charter school under
1-30 Subchapter E, Chapter 12.

1-31 (3) "Education agency" means:

1-32 (A) the Texas Education Agency, the State Board
1-33 for Educator Certification, or the Texas Higher Education
1-34 Coordinating Board; or

1-35 (B) a regional education service center, as
1-36 defined by Section 5.001, or any other public local, regional, or
1-37 state education organization identified by the board for
1-38 participation in the system.

1-39 (4) "Educational institution" means:

1-40 (A) a school district or campus;

1-41 (B) a charter school;

1-42 (C) an institution of higher education;

1-43 (D) a university system; or

1-44 (E) a virtual educational system accredited by an
1-45 education agency.

1-46 (5) "Educator" means a person who:

1-47 (A) is required to hold a certificate issued
1-48 under Subchapter B, Chapter 21; or

1-49 (B) is an instructor at an institution of higher
1-50 education.

1-51 (6) "Institution of higher education" has the meaning
1-52 assigned by Section 61.003.

1-53 (7) "System" means the Texas Education Data System
1-54 (TEDS) established under this chapter.

1-55 (8) "University system" has the meaning assigned by
1-56 Section 61.003.

1-57 Sec. 2.002. PURPOSE. The purpose of the system is to:

1-58 (1) enable educational institutions and education
1-59 agencies to provide detailed information for the evaluation and
1-60 improvement of educational programs;

1-61 (2) facilitate academic, fiscal, and managerial
1-62 accountability at educational institutions and education agencies;

1-63 (3) enable educational institutions and education

2-1 agencies to provide information to the public in a manner
2-2 consistent with state and federal law, including the Family
2-3 Educational Rights and Privacy Act (20 U.S.C. Section 1232g); and
2-4 (4) facilitate the collection of information used in
2-5 the administration of educational institutions.

2-6 Sec. 2.003. PARTICIPATION REQUIRED. Each educational
2-7 institution and education agency shall:

- 2-8 (1) participate in the system; and
- 2-9 (2) use information systems, including connection
2-10 capabilities, data elements, and accounting, personnel, and
2-11 student information systems, that meet the system's requirements.

2-12 Sec. 2.0031. IMPLEMENTATION. (a) Not later than September
2-13 1, 2011:

2-14 (1) the commissioner of education and commissioner of
2-15 higher education shall fully implement the system for participation
2-16 by educational institutions and education agencies; and

2-17 (2) each educational institution and education agency
2-18 shall begin participating in the system as required by Section
2-19 2.003.

2-20 (b) The commissioner of education and commissioner of
2-21 higher education may implement the system on a pilot basis in one or
2-22 more educational institutions before fully implementing the system
2-23 as required by this section.

2-24 (c) The board shall adopt an implementation and transition
2-25 timeline for the system.

2-26 (d) This section expires December 1, 2011.

2-27 Sec. 2.0032. ENHANCEMENT OF PUBLIC EDUCATION INFORMATION
2-28 MANAGEMENT SYSTEM (PEIMS). (a) The commissioner of education
2-29 shall upgrade and enhance the Public Education Information
2-30 Management System (PEIMS) to the extent necessary to enable an
2-31 efficient transition to the system established under this chapter.
2-32 Any project implemented under this section to upgrade and enhance
2-33 the Public Education Information Management System (PEIMS) must:

2-34 (1) conform to the requirements of the Texas project
2-35 delivery framework established under Subchapter J, Chapter 2054,
2-36 Government Code;

2-37 (2) enable web-based applications and interfaces
2-38 within a client-server environment for future data collections; and

2-39 (3) be scalable to accommodate the future data needs
2-40 of the system.

2-41 (b) The commissioner of education may use funds
2-42 appropriated for the fiscal biennium ending August 31, 2009, and
2-43 federal funds, to the extent authorized under federal law, to
2-44 implement projects under this section. The commissioner of
2-45 education may accept gifts, grants, and donations for the purpose
2-46 of implementing projects under this section.

2-47 (c) Not later than December 1, 2008, the commissioner of
2-48 education shall prepare and deliver to each member of the
2-49 legislature a report concerning the progress of any project
2-50 implemented under this section.

2-51 (d) This section expires August 31, 2009.

2-52 Sec. 2.004. REFERENCE TO PUBLIC EDUCATION INFORMATION
2-53 MANAGEMENT SYSTEM (PEIMS). On or after September 1, 2011, a
2-54 reference in law to the Public Education Information Management
2-55 System (PEIMS) means the Texas Education Data System (TEDS).

2-56 [Sections 2.005-2.050 reserved for expansion]

2-57 SUBCHAPTER B. SYSTEM BOARD

2-58 Sec. 2.051. ESTABLISHMENT OF BOARD. The commissioner of
2-59 education and the commissioner of higher education shall establish
2-60 a board to design and monitor the implementation of the system and
2-61 perform other functions authorized under this chapter.

2-62 Sec. 2.052. MEMBERSHIP OF BOARD. (a) The board is composed
2-63 of 13 members, including the commissioner of education and the
2-64 commissioner of higher education. The commissioner of education
2-65 shall chair the board.

2-66 (b) The commissioner of education shall appoint six members
2-67 of the board. Two of the members appointed by the commissioner of
2-68 education must have extensive experience in the field of public
2-69 education data systems or as researchers. Two of the members

3-1 appointed by the commissioner of education must have extensive
3-2 experience in the field of public education. At least two of the
3-3 members appointed by the commissioner of education must be employed
3-4 by a school district at the time of appointment. Two of the members
3-5 appointed by the commissioner of education must be selected from a
3-6 list of candidates prepared by the lieutenant governor for
3-7 appointment to the board.

3-8 (c) The commissioner of higher education shall appoint five
3-9 members of the board. Two of the members appointed by the
3-10 commissioner of higher education must have extensive experience in
3-11 the field of higher education data systems or as researchers. One
3-12 of the members appointed by the commissioner of higher education
3-13 must have expertise in complex business transaction software, but
3-14 may not be affiliated with an entity that contracts with any
3-15 education agency or educational institution to provide services.
3-16 At least two of the members appointed by the commissioner of higher
3-17 education must be employed by an institution of higher education at
3-18 the time of appointment. Two of the members appointed by the
3-19 commissioner of higher education must be selected from a list of
3-20 candidates prepared by the speaker of the house of representatives
3-21 for appointment to the board.

3-22 Sec. 2.053. TERMS. Members of the board, other than the
3-23 commissioner of education and commissioner of higher education,
3-24 serve four-year terms expiring February 1, 2011, and February 1 of
3-25 every fourth year thereafter, and are eligible for reappointment.

3-26 Sec. 2.054. REIMBURSEMENT FOR EXPENSES. A member of the
3-27 board is not entitled to compensation for the member's service on
3-28 the board, but is entitled to reimbursement for actual and
3-29 reasonable expenses incurred while on board business as provided by
3-30 the General Appropriations Act.

3-31 [Sections 2.055-2.100 reserved for expansion]

3-32 SUBCHAPTER C. SYSTEM COMPONENTS

3-33 Sec. 2.101. ESTABLISHMENT OF SYSTEM. (a) The commissioner
3-34 of education and commissioner of higher education shall establish,
3-35 implement, and administer the system in the manner provided by this
3-36 chapter.

3-37 (b) The system must be an efficient, cost-effective
3-38 electronic system for storage of public and higher education data
3-39 that consolidates data previously managed separately by the Texas
3-40 Education Agency, the Texas Higher Education Coordinating Board,
3-41 and the State Board for Educator Certification.

3-42 (c) In designing the system, the board shall:

3-43 (1) develop policy objectives concerning the system;

3-44 (2) design evaluation criteria for the system so that
3-45 the system is capable of providing detailed student achievement,
3-46 curricular, instructional, managerial, and educational policy data
3-47 functions;

3-48 (3) ensure that student educational data is not
3-49 disclosed, removed, or copied, except as authorized under the
3-50 Family Educational Rights and Privacy Act (20 U.S.C. Section
3-51 1232g);

3-52 (4) limit the extent to which education agencies and
3-53 educational institutions are required to collect data separately
3-54 from the collection of data for the system; and

3-55 (5) allow for longitudinal analysis and program
3-56 evaluations through the system.

3-57 (d) The commissioner of education and commissioner of
3-58 higher education shall implement the system in a manner consistent
3-59 with the design adopted by the board under Subsection (c).

3-60 (e) The commissioner of education and commissioner of
3-61 higher education shall acquire access to a database that includes
3-62 college enrollment and graduation information concerning students
3-63 who attended public high schools and charter schools in this state
3-64 and make the information from that database available through the
3-65 system. To the extent authorized under state and federal law, the
3-66 commissioner of education and commissioner of higher education
3-67 shall adopt rules to ensure that educational institutions,
3-68 education agencies, community leaders, and members of the
3-69 legislature have access to the information from the database. The

4-1 rules shall ensure that access to student educational records is
4-2 limited to aggregate data that does not disclose personally
4-3 identifiable information about an individual student or the
4-4 student's family, except as specifically authorized by federal law.

4-5 Sec. 2.102. SYSTEM TECHNOLOGIES. In developing the system,
4-6 the commissioner of education and commissioner of higher education
4-7 shall ensure that the system includes:

4-8 (1) technologies that connect data elements among
4-9 educational institutions and education agencies;

4-10 (2) direct connection technologies that allow
4-11 educational institutions and education agencies to use a variety of
4-12 local information systems to maintain data, connect with the
4-13 system, and facilitate timely exchange of information; and

4-14 (3) analytical tools designed to assist educators,
4-15 policy makers, and researchers in the evaluation of student
4-16 achievement, educational programs, and operational efficiencies.

4-17 Sec. 2.103. SYSTEM DATA ELEMENTS. (a) The commissioner of
4-18 education and commissioner of higher education, acting on
4-19 recommendation of the board, shall identify the data elements
4-20 required for inclusion in the system. The data elements may
4-21 include:

4-22 (1) data for each educational institution concerning
4-23 organization, personnel, budgetary and actual fiscal measures, and
4-24 student and community demographics;

4-25 (2) to the extent applicable, a record of the academic
4-26 training, certifications, experience, and completion of continuing
4-27 education and professional development for each educator employed
4-28 by an educational institution;

4-29 (3) a unique, permanent personal identification
4-30 number for each student enrolled in and educator employed by an
4-31 educational institution for the purpose of facilitating the
4-32 connection of relevant data elements and for use at each level of
4-33 the system;

4-34 (4) data concerning student academic performance,
4-35 including performance on state assessment instruments;

4-36 (5) demographic data for each student; and

4-37 (6) a secure and transferable electronic record with a
4-38 common data structure for each student enrolled in an educational
4-39 institution that includes the following information:

4-40 (A) for a student enrolled in an institution of
4-41 higher education:

4-42 (i) courses taken by the student and course
4-43 completion and academic performance information concerning the
4-44 student;

4-45 (ii) instructors of record for the student;

4-46 and

4-47 (iii) each degree awarded to the student;

4-48 and

4-49 (B) for a student enrolled in a school district
4-50 or charter school:

4-51 (i) courses taken by the student and grade
4-52 or course completion information, as applicable, concerning the
4-53 student;

4-54 (ii) teachers of record for the student;

4-55 (iii) the student's performance on
4-56 assessment instruments administered under Section 39.023 and
4-57 college preparation assessments;

4-58 (iv) information concerning whether the
4-59 student received special education services under Subchapter A,
4-60 Chapter 29, including information concerning any individualized
4-61 education program developed for the student under Section 29.005;

4-62 (v) information concerning any personal
4-63 graduation plan developed for the student under Section 28.0212;

4-64 (vi) the student's attendance records; and

4-65 (vii) the specific reason for leaving a
4-66 school district or charter school, such as transferring,
4-67 graduating, or dropping out of school.

4-68 (b) In specifying the data elements to be included in the
4-69 system, the commissioner of education and commissioner of higher

5-1 education shall consider the cost to educational institutions of
 5-2 collecting and reporting the required information.

5-3 (c) The commissioner of education and commissioner of
 5-4 higher education shall ensure that the system includes flexible
 5-5 data fields so that the system can be used in the evaluation of
 5-6 programs at educational institutions.

5-7 (d) Any personally identifiable information collected under
 5-8 this section shall not be public information subject to disclosure
 5-9 under Chapter 552, Government Code. The commissioner of education
 5-10 and commissioner of higher education shall adopt procedures for
 5-11 complying with requests for information under Chapter 552,
 5-12 Government Code, that allow for recovery of all costs associated
 5-13 with providing information from the system.

5-14 Sec. 2.104. ANALYTICAL TOOLS. (a) The commissioner of
 5-15 education and commissioner of higher education shall incorporate
 5-16 into the system analytical tools for improving the quality of data
 5-17 collection, management, analyses, and dissemination.

5-18 (b) The analytical tools, where applicable, must be
 5-19 designed to provide information that can be used directly and
 5-20 efficiently by educators so as to limit the need for locally
 5-21 designed data management systems.

5-22 (c) The analytical tools incorporated into the system under
 5-23 this section must include:

5-24 (1) comparative academic and fiscal measures of
 5-25 success as provided by Section 2.105; and

5-26 (2) dropout prevention and intervention tools as
 5-27 provided by Section 2.106.

5-28 Sec. 2.105. COMPARATIVE ACADEMIC AND FISCAL MEASURES OF
 5-29 SUCCESS. (a) The commissioner of education and commissioner of
 5-30 higher education shall select a methodology and incorporate into
 5-31 the system a capability for generating reports that compare the
 5-32 spending and performance of educational institutions over time and
 5-33 as compared with other educational institutions.

5-34 (b) The methodology selected by the commissioner of
 5-35 education and commissioner of higher education must include
 5-36 advanced statistical methods that can adjust for factors beyond the
 5-37 control of an educational institution, including student
 5-38 demographics and community characteristics.

5-39 Sec. 2.106. DROPOUT PREVENTION AND INTERVENTION. (a) The
 5-40 commissioner of education and commissioner of higher education
 5-41 shall contract with one or more centers for education research, as
 5-42 established under Section 1.005, to develop recommendations for
 5-43 establishing indicators for identifying students who are likely to
 5-44 drop out of school.

5-45 (b) The commissioner of education shall select a
 5-46 methodology and recommend that school districts implement a
 5-47 reporting method that aids in the early detection and intervention
 5-48 of students who are likely to drop out of school.

5-49 Sec. 2.107. MEASURES OF IMPROVEMENT IN STUDENT ACHIEVEMENT.
 5-50 (a) The commissioner of education and commissioner of higher
 5-51 education shall contract with one or more organizations with
 5-52 well-established peer-review processes to:

5-53 (1) develop recommendations, drawing from
 5-54 independently peer-reviewed research that is based on empirical
 5-55 evidence and adheres to the basic principles of sound statistical
 5-56 analysis, for using the system to measure improvement in individual
 5-57 student achievement on assessment instruments; and

5-58 (2) study the feasibility, reliability, and validity
 5-59 of using the measure of improvement in individual student
 5-60 achievement on assessment instruments in conducting evaluations
 5-61 and appraisals of educators.

5-62 (b) The results of the study conducted under Subsection
 5-63 (a)(2) must be based on empirical evidence and published in
 5-64 scientific journals using independent peer review. The validity of
 5-65 a measure of improvement in individual student achievement on
 5-66 assessment instruments must be established before the measure may
 5-67 be a required component of an educator's evaluation or appraisal.
 5-68 An entity that develops an assessment instrument that is used as a
 5-69 basis for an educator's evaluation or appraisal as provided by this

6-1 section, as well as an impartial psychometrician, must certify that
 6-2 the assessment instrument is validated and reliable for that
 6-3 purpose.

6-4 (c) The commissioner of education and commissioner of
 6-5 higher education shall select a methodology and incorporate into
 6-6 the system a capability for generating reports for school districts
 6-7 and charter schools concerning annual improvement in student
 6-8 achievement at the student, classroom, campus, and district or
 6-9 charter school levels. The methodology selected by the
 6-10 commissioner of education and commissioner of higher education must
 6-11 include advanced statistical methods that are capable of fairly and
 6-12 accurately adjusting for factors beyond the control of an
 6-13 educational institution or educator, including student
 6-14 demographics and community characteristics.

6-15 Sec. 2.108. INFORMATION CONCERNING INSTRUCTIONAL METHODS
 6-16 PROHIBITED. The system may not contain any information concerning
 6-17 instructional methods, except as required by federal law.

6-18 [Sections 2.109-2.150 reserved for expansion]

6-19 SUBCHAPTER D. ADMINISTRATION AND MANAGEMENT OF SYSTEM

6-20 Sec. 2.151. RULES. The commissioner of education and the
 6-21 Texas Higher Education Coordinating Board may, where applicable:

6-22 (1) separately adopt rules necessary to support the
 6-23 implementation of criteria, strategies, and policies concerning
 6-24 the system; and

6-25 (2) coordinate and adopt joint rules.

6-26 Sec. 2.152. COST-EFFECTIVE MANAGEMENT OF SYSTEM. (a) The
 6-27 commissioner of education and commissioner of higher education
 6-28 shall identify the most cost-effective approach to establishing and
 6-29 maintaining the system, including in establishing and selecting:

6-30 (1) interfaces to the data system for educators,
 6-31 educational institutions, education agencies, other state
 6-32 agencies, centers for education research established under Section
 6-33 1.005, and the public; and

6-34 (2) analytical tools that improve the quality of data
 6-35 submissions, educational programs, and operational efficiencies at
 6-36 educational institutions and education agencies.

6-37 (b) To achieve the objectives described by this section, the
 6-38 commissioner of education and commissioner of higher education:

6-39 (1) shall consider using the TexasOnline project as
 6-40 provided by Section 2054.252, Government Code;

6-41 (2) may issue requests for proposals and award
 6-42 contracts on a competitive basis; and

6-43 (3) may include incentives in contracts to facilitate
 6-44 the receipt of timely delivery of services.

6-45 (c) The commissioner of education and commissioner of
 6-46 higher education may enter into a contract with one or more persons
 6-47 with relevant expertise to:

6-48 (1) advise the commissioners in issuing requests for
 6-49 proposals under Subsection (b)(2);

6-50 (2) score responses to proposals received by the
 6-51 commissioners; and

6-52 (3) make recommendations to the commissioners
 6-53 concerning the proposals.

6-54 Sec. 2.153. ASSISTANCE OF DEPARTMENT OF INFORMATION
 6-55 RESOURCES. The commissioner of education and commissioner of
 6-56 higher education shall separately or jointly, as applicable, seek
 6-57 the assistance of the Department of Information Resources in the
 6-58 design, coordination, implementation, and management of projects
 6-59 related to the system.

6-60 Sec. 2.154. PROCESS FOR RELEASING INFORMATION. The
 6-61 commissioner of education and commissioner of higher education
 6-62 shall develop and implement a process for releasing information for
 6-63 research purposes in a manner consistent with state and federal
 6-64 law, including the Family Educational Rights and Privacy Act (20
 6-65 U.S.C. Section 1232g).

6-66 Sec. 2.155. GRANTS; FEDERAL FUNDS. For the purpose of
 6-67 developing, maintaining, and enhancing the system, the
 6-68 commissioner of education and the commissioner of higher education:

6-69 (1) may solicit and receive grants; and

7-1 (2) where applicable, shall apply for and use relevant
7-2 federal funds.

7-3 [Sections 2.156-2.200 reserved for expansion]

7-4 SUBCHAPTER E. REVIEWS AND REPORTS CONCERNING SYSTEM

7-5 Sec. 2.201. REVIEW; RECOMMENDATIONS TO LEGISLATURE. (a)
7-6 The board shall review rules, criteria, strategies, and policies
7-7 relating to the system and make recommendations to the commissioner
7-8 of education and the commissioner of higher education concerning
7-9 the repeal or amendment of rules or reporting requirements that are
7-10 unnecessary.

7-11 (b) Not later than December 1 of each even-numbered year,
7-12 the commissioner of education and commissioner of higher education,
7-13 with the assistance of the board, shall provide each member of the
7-14 legislature with a report concerning recommendations for improving
7-15 the efficiency and effectiveness of the system.

7-16 (c) Not later than September 1, 2008, the commissioner of
7-17 education and commissioner of higher education shall complete the
7-18 first review required by Subsection (a). Not later than December 1,
7-19 2008, the commissioner of education and commissioner of higher
7-20 education shall provide the first report to each member of the
7-21 legislature as required by Subsection (b). The reports to be
7-22 provided to the legislature by December 1, 2008, and December 1,
7-23 2010, must include information concerning the status of the
7-24 transition toward the implementation of the system in accordance
7-25 with the timeline adopted by the board under Section 2.0031(c).
7-26 This subsection expires January 1, 2011.

7-27 SECTION 2. Effective September 1, 2011, Section 42.006,
7-28 Education Code, is repealed.

7-29 SECTION 3. As soon as practicable after the effective date
7-30 of this Act:

7-31 (1) the lieutenant governor shall provide the
7-32 commissioner of education with a list of candidates for appointment
7-33 to the Texas Education Data System (TEDS) board, as required by
7-34 Section 2.052, Education Code, as added by this Act;

7-35 (2) the speaker of the house of representatives shall
7-36 provide the commissioner of higher education with a list of
7-37 candidates for appointment to the Texas Education Data System
7-38 (TEDS) board, as required by Section 2.052, Education Code, as
7-39 added by this Act; and

7-40 (3) the commissioner of education and the commissioner
7-41 of higher education shall appoint members to the Texas Education
7-42 Data System (TEDS) board.

7-43 SECTION 4. Except as otherwise provided by this Act, this
7-44 Act takes effect September 1, 2007.

7-45 * * * * *