

1-1 By: Morrison (Senate Sponsor - Shapiro) H.B. No. 3828
1-2 (In the Senate - Received from the House May 14, 2007;
1-3 May 15, 2007, read first time and referred to Committee on
1-4 Education; May 18, 2007, reported favorably by the following vote:
1-5 Yeas 5, Nays 1; May 18, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to performance incentive funding for institutions of
1-9 higher education.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Chapter 61, Education Code, is amended by adding
1-12 Subchapter EE to read as follows:

1-13 SUBCHAPTER EE. PERFORMANCE INCENTIVE FUNDING

1-14 Sec. 61.9801. PERFORMANCE INCENTIVE FUNDING FOR CERTAIN
1-15 GENERAL ACADEMIC TEACHING INSTITUTIONS. (a) This section applies
1-16 only to general academic teaching institutions other than public
1-17 state colleges.

1-18 (b) In this section:

1-19 (1) "Advanced degree" means a graduate or professional
1-20 degree for which a baccalaureate degree is usually required as a
1-21 prerequisite to admission into the degree program.

1-22 (2) "At-risk student" means a student of an
1-23 institution to which this section applies:

1-24 (A) whose score on the Scholastic Assessment Test
1-25 or the American College Test is less than the national mean score of
1-26 students' scores on that test;

1-27 (B) who has been awarded a grant under the
1-28 federal Pell Grant program;

1-29 (C) who was 20 years of age or older but younger
1-30 than 60 years of age on the date the student initially enrolled in
1-31 the institution;

1-32 (D) who initially enrolled in the institution for
1-33 less than 12 semester credit hours during a fall or spring semester;

1-34 (E) who did not receive a high school diploma but
1-35 received a high school equivalency certificate;

1-36 (F) who may not be claimed by any other person as
1-37 a dependent for federal income tax purposes but may claim at least
1-38 one other person as a dependent for federal income tax purposes; or

1-39 (G) who is a single parent.

1-40 (3) "Critical field" means a field of study designated
1-41 as a critical field under Subsection (c).

1-42 (c) Except as otherwise provided under Subdivision (2), the
1-43 fields of engineering, computer science, mathematics, physical
1-44 science, allied health, nursing, and teaching certification in the
1-45 field of science or mathematics are critical fields.

1-46 (d) Except as otherwise provided by rules adopted under
1-47 Section 61.9806, for each state fiscal year, the board shall
1-48 distribute any performance incentive funds appropriated by the
1-49 legislature for the purposes of this section, and any other funds
1-50 made available for the purposes of this section, to institutions to
1-51 which this section applies in proportion to the number of points
1-52 assigned to each institution under the tables prescribed by
1-53 Subsections (f) and (g).

1-54 (e) A number of points is assigned in accordance with
1-55 Subsections (f) and (g) only on the basis of a degree awarded during
1-56 the state fiscal year preceding the year for which the distribution
1-57 of funds under this section is made. Points may not be assigned for
1-58 any degree awarded to an international student.

1-59 (f) A number of points is assigned for a bachelor's degree
1-60 awarded to a student by an institution to which this section applies
1-61 according to the following table:

	<u>POINTS</u>
<u>Non-critical Field/Not At-Risk</u>	<u>1.0</u>
<u>Non-critical Field/At-Risk</u>	<u>2.0</u>

2-1	<u>Critical Field/Not At-Risk</u>	<u>2.0</u>
2-2	<u>Critical Field/At-Risk</u>	<u>3.0</u>
2-3	<u>(g) A number of points is assigned for an advanced degree</u>	
2-4	<u>awarded to a student by an institution to which this section applies</u>	
2-5	<u>based on the type of advanced degree awarded according to the</u>	
2-6	<u>following table:</u>	
2-7	<u>TYPE OF DEGREE AWARDED</u>	<u>POINTS</u>
2-8	<u>Master's</u>	<u>1.0</u>
2-9	<u>Doctoral</u>	<u>1.0</u>
2-10	<u>Professional</u>	<u>1.0</u>
2-11	<u>Sec. 61.9802. PERFORMANCE INCENTIVE FUNDING FOR COMMUNITY</u>	
2-12	<u>COLLEGES, PUBLIC TECHNICAL INSTITUTES, AND PUBLIC STATE COLLEGES.</u>	
2-13	<u>(a) This section applies only to the following institutions of</u>	
2-14	<u>higher education:</u>	
2-15	<u>(1) community colleges;</u>	
2-16	<u>(2) public technical institutes; and</u>	
2-17	<u>(3) public state colleges.</u>	
2-18	<u>(b) In this section:</u>	
2-19	<u>(1) "At-risk student" means a student of an</u>	
2-20	<u>institution to which this section applies:</u>	
2-21	<u>(A) who graduated from high school with a</u>	
2-22	<u>cumulative grade point average of less than 2.5 on the grading scale</u>	
2-23	<u>established by the board by rule under Section 51.807;</u>	
2-24	<u>(B) who has been awarded a grant under the</u>	
2-25	<u>federal Pell Grant program;</u>	
2-26	<u>(C) who was 20 years of age or older but younger</u>	
2-27	<u>than 60 years of age on the date the student enrolled in the</u>	
2-28	<u>institution for the first time;</u>	
2-29	<u>(D) who initially enrolled in the institution for</u>	
2-30	<u>less than 12 semester credit hours during a fall or spring semester;</u>	
2-31	<u>(E) who did not receive a high school diploma but</u>	
2-32	<u>received a high school equivalency certificate;</u>	
2-33	<u>(F) who may not be claimed by any other person as</u>	
2-34	<u>a dependent for federal income tax purposes but may claim at least</u>	
2-35	<u>one other person as a dependent for federal income tax purposes; or</u>	
2-36	<u>(G) who is a single parent.</u>	
2-37	<u>(2) "Critical field" means a field of study designated</u>	
2-38	<u>as a critical field under Subsection (c).</u>	
2-39	<u>(c) Except as otherwise provided under Subdivision (2), the</u>	
2-40	<u>fields of engineering, technology, computer science, mathematics,</u>	
2-41	<u>physical science, allied health, and nursing are critical fields.</u>	
2-42	<u>Beginning September 1, 2010, the board, based on the board's</u>	
2-43	<u>determination of those fields of study in which the support and</u>	
2-44	<u>development of postsecondary education programs at the</u>	
2-45	<u>lower-division level are most critically necessary for serving the</u>	
2-46	<u>needs of this state, by rule may:</u>	
2-47	<u>(1) designate as a critical field a field of study that</u>	
2-48	<u>is not currently designated by this subsection or by the board as a</u>	
2-49	<u>critical field; or</u>	
2-50	<u>(2) remove a field of study from the list of fields</u>	
2-51	<u>currently designated by this subsection or by the board as critical</u>	
2-52	<u>fields.</u>	
2-53	<u>(d) Except as otherwise provided by rules adopted under</u>	
2-54	<u>Section 61.9806, for each state fiscal year, the board shall</u>	
2-55	<u>distribute any performance incentive funds appropriated by the</u>	
2-56	<u>legislature for the purposes of this section, and any other funds</u>	
2-57	<u>made available for the purposes of this section, to institutions to</u>	
2-58	<u>which this section applies in proportion to the number of points</u>	
2-59	<u>assigned to each institution under the tables prescribed by</u>	
2-60	<u>Subsections (f) and (g).</u>	
2-61	<u>(e) A number of points is assigned in accordance with</u>	
2-62	<u>Subsections (f) and (g) only on the basis of a degree or certificate</u>	
2-63	<u>awarded or a student transfer made during the state fiscal year</u>	
2-64	<u>preceding the year for which the distribution of funds under this</u>	
2-65	<u>section is made. Points may not be assigned for any degree or</u>	
2-66	<u>certificate awarded:</u>	
2-67	<u>(1) in a program on a topic or at a level that the board</u>	
2-68	<u>determines does not merit funding under this section; or</u>	
2-69	<u>(2) to an international student.</u>	

3-1 (f) A number of points is assigned for an associate degree
 3-2 or certificate awarded to a student by an institution to which this
 3-3 section applies according to the following tables:

3-4 TABLE 1

	<u>POINTS</u>
3-5 Associate Degree/Non-critical Field/Not At-Risk	2.0
3-6 Associate Degree/Non-critical Field/At-Risk	4.0
3-7 Associate Degree/Critical Field/Not At-Risk	4.0
3-8 Associate Degree/Critical Field/At-Risk	6.0

3-9 TABLE 2

	<u>POINTS</u>
3-10 Certificate Program/Non-critical Field/Not At-Risk	1.0
3-11 Certificate Program/Non-critical Field/At-Risk	2.0
3-12 Certificate Program/Critical Field/Not At-Risk	2.0
3-13 Certificate Program/Critical Field/At-Risk	3.0

3-14 (g) A number of points is assigned to an institution to
 3-15 which this section applies for each student of the institution who,
 3-16 in the preceding state fiscal year, completed at least 30 semester
 3-17 credit hours at the institution with a grade point average of at
 3-18 least 2.5 on the grading scale established by the board under
 3-19 Section 51.807 before transferring to a general academic teaching
 3-20 institution other than a public state college and determined
 3-21 according to the following table:

	<u>POINTS PER TRANSFER STUDENT</u>
3-22 Not At-Risk	2.0
3-23 At-Risk	4.0

3-24 Sec. 61.9803. PERFORMANCE INCENTIVE FUNDING FOR MEDICAL AND
 3-25 DENTAL UNITS. (a) This section applies only to:

- 3-26 (1) medical and dental units; and
- 3-27 (2) the Baylor College of Medicine.

3-28 (b) Except as otherwise provided by rules adopted under
 3-29 Section 61.9806, for each state fiscal year, the board shall
 3-30 distribute any performance incentive funds appropriated by the
 3-31 legislature for the purposes of this section, and any other funds
 3-32 made available for the purposes of this section, to institutions to
 3-33 which this section applies in proportion to the number of points
 3-34 assigned to each institution under the table prescribed by
 3-35 Subsection (d).

3-36 (c) A number of points is assigned in accordance with
 3-37 Subsection (d) only on the basis of a degree awarded or a first
 3-38 residency completed during the state fiscal year preceding the year
 3-39 for which the distribution of funds under this section is made.
 3-40 Points may not be assigned for any degree awarded to an
 3-41 international student.

3-42 (d) A number of points is assigned for a degree awarded to a
 3-43 student by an institution to which this section applies based on the
 3-44 type of degree awarded or a first residency completed according to
 3-45 the following table:

<u>TYPE OF DEGREE</u>	<u>POINTS PER DEGREE</u>
3-46 Bachelor's	1.0
3-47 Master's	1.0
3-48 Doctoral	1.0
3-49 First Residency Completed	1.0

3-50 (e) Notwithstanding any other provision of this section, a
 3-51 number of points may be assigned under this section for a degree
 3-52 awarded or a first-year residency completed by a student of the
 3-53 Baylor College of Medicine only if the student was awarded the
 3-54 degree or completed the residency in a program at the college for
 3-55 which the college receives state funding under Subchapter D or I.

3-56 Sec. 61.9804. RULES. The board shall adopt rules for the
 3-57 administration of this subchapter.

3-58 Sec. 61.9805. REPORT BY INSTITUTIONS TO BOARD. Not later
 3-59 than September 1 of each year, each institution of higher education
 3-60 or other postsecondary educational institution to which this
 3-61 subchapter applies shall compile and submit to the board, in
 3-62 accordance with rules adopted by the board, a report that includes
 3-63 the following data regarding each student who was awarded a degree
 3-64 or certificate by the institution, completed a first residency with
 3-65 the institution, or transferred from the institution to a general

4-1 academic teaching institution other than a public state college,
 4-2 during the preceding state fiscal year:

4-3 (1) the student's scores on the Scholastic Assessment
 4-4 Test and American College Test;

4-5 (2) the student's cumulative high school grade point
 4-6 average;

4-7 (3) the number of semester credit hours completed by
 4-8 the student at the institution;

4-9 (4) the student's grade point average on all
 4-10 coursework completed at the institution using the grading scale
 4-11 established by the board by rule under Section 51.807;

4-12 (5) whether the student received a grant under the
 4-13 federal Pell Grant program;

4-14 (6) the age of the student on the date the student
 4-15 initially enrolled in the institution;

4-16 (7) whether the student initially enrolled in the
 4-17 institution for less than 12 semester credit hours during a fall or
 4-18 spring semester;

4-19 (8) whether the student is an international student;

4-20 (9) whether any degree or certificate awarded to the
 4-21 student by the institution is in a field designated as a critical
 4-22 field under Section 61.9801 or Section 61.9802;

4-23 (10) whether the student did not receive a high school
 4-24 diploma but received a high school equivalency certificate;

4-25 (11) whether the student may not be claimed by any
 4-26 other person as a dependent for federal income tax purposes but may
 4-27 claim at least one other person as a dependent for federal income
 4-28 tax purposes;

4-29 (12) whether the student is a single parent; and

4-30 (13) any other information required by the board.

4-31 Sec. 61.9806. ADJUSTMENT OF FUNDING BASED ON QUALITY OF
 4-32 DEGREES AND CERTIFICATES AWARDED. (a) The board, in consultation
 4-33 with institutions of higher education or other postsecondary
 4-34 educational institutions to which this subchapter applies, by rule
 4-35 shall develop and adopt as an additional criteria by which points
 4-36 are assigned under Sections 61.9801, 61.9802, and 61.9803, or for
 4-37 which the points assigned under those sections are adjusted, a
 4-38 methodology designed to assess the quality of the degrees and
 4-39 certificates for which points are assigned under this subchapter.

4-40 (b) The methodology adopted under this section must:

4-41 (1) be designed to promote the maintenance or
 4-42 enhancement of the quality of degrees and certificates awarded by
 4-43 the institutions; and

4-44 (2) include minimum standards of quality that a degree
 4-45 or certificate awarded by an institution must satisfy in order to
 4-46 qualify for an assignment of points under this subchapter.

4-47 (c) The minimum standards required under Subsection (b)(2)
 4-48 may be established per graduate, per department, per institution,
 4-49 or based on any other unit of measurement the board considers
 4-50 appropriate.

4-51 (d) The board may consider for purposes of this section the
 4-52 following indicators to measure the quality of degrees or
 4-53 certificates:

4-54 (1) end-of-degree and end-of-certificate
 4-55 examinations, except that the board may not require a student's
 4-56 performance on such an examination authorized by the board to be
 4-57 used for purposes of this section to be used to determine the
 4-58 student's eligibility for graduation;

4-59 (2) a peer review process;

4-60 (3) accreditation status; and

4-61 (4) any other factor the board considers appropriate
 4-62 relating to the participation goals in Closing the Gaps, the
 4-63 state's master plan for higher education.

4-64 (d-1) A student's performance on a standardized test may not
 4-65 be required for graduation from an institution of higher education,
 4-66 used as a measure of an institution's accountability, or used as an
 4-67 indicator or criterion under this section.

4-68 (e) Not later than January 31 of each even-numbered year,
 4-69 the board shall adopt the methodology required by this section

5-1 applicable to the distribution of funds under this subchapter in
5-2 the state fiscal biennium that begins in the following odd-numbered
5-3 year. Upon adoption, the board shall submit a copy of the
5-4 methodology to the governor, lieutenant governor, speaker of the
5-5 house of representatives, chair of the senate finance committee,
5-6 chair of the house committee on appropriations, and members of each
5-7 legislative standing committee or subcommittee with higher
5-8 education oversight responsibility.

5-9 (f) The board shall adopt rules for the administration of
5-10 this section.

5-11 Sec. 61.9807. REPORT TO BOARD AND LEGISLATURE BY EDUCATION
5-12 RESEARCH CENTER REGARDING EVALUATION OF POINT ASSIGNMENTS. Each
5-13 state fiscal biennium, the board shall provide for the evaluation
5-14 by an education research center established under Section 1.005 of
5-15 the points assigned under Sections 61.9801, 61.9802, and 61.9803 or
5-16 under rules adopted by the board under Section 61.9806. Not later
5-17 than November 1 of each even-numbered year, the education research
5-18 center shall submit to the board and the legislature a written
5-19 report regarding the center's evaluation under this section,
5-20 including any recommendations for changes to the points assigned
5-21 under those sections.

5-22 SECTION 2. Section 61.0591, Education Code, is repealed.

5-23 SECTION 3. The Texas Higher Education Coordinating Board
5-24 shall adopt rules relating to the administration of Subchapter EE,
5-25 Chapter 61, Education Code, as added by this Act, as soon as
5-26 practicable after the effective date of this Act.

5-27 SECTION 4. This Act takes effect September 1, 2008.

5-28 * * * * *