

1-1 By: Morrison (Senate Sponsor - Shapiro) H.B. No. 3790  
1-2 (In the Senate - Received from the House May 15, 2009;  
1-3 May 21, 2009, read first time and referred to Committee on Higher  
1-4 Education; May 25, 2009, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 4, Nays 0;  
1-6 May 25, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3790 By: Duncan

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

1-10 relating to performance incentive funding for public institutions  
1-11 of higher education and to recognition of certain student  
1-12 achievement on degree completion.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Chapter 61, Education Code, is amended by adding  
1-15 Subchapter FF to read as follows:

1-16 SUBCHAPTER FF. PERFORMANCE INCENTIVE FUNDING

1-17 Sec. 61.9801. PERFORMANCE INCENTIVE FUNDING FOR CERTAIN  
1-18 GENERAL ACADEMIC TEACHING INSTITUTIONS. (a) This section applies  
1-19 only to general academic teaching institutions other than public  
1-20 state colleges.

1-21 (b) In this section:

1-22 (1) "Advanced degree" means a graduate or professional  
1-23 degree for which a baccalaureate degree is usually required as a  
1-24 prerequisite to admission into the degree program.

1-25 (2) "At-risk student" means an undergraduate student  
1-26 of an institution to which this section applies:

1-27 (A) whose score on the Scholastic Assessment Test  
1-28 (SAT) or the American College Test (ACT) is less than the national  
1-29 mean score of students' scores on that test;

1-30 (B) who has been awarded a grant under the  
1-31 federal Pell Grant program;

1-32 (C) who was 20 years of age or older on the date  
1-33 the student initially enrolled in the institution;

1-34 (D) who initially enrolled in the institution for  
1-35 less than 12 semester credit hours during a fall or spring semester;

1-36 (E) who did not receive a high school diploma but  
1-37 received a high school equivalency certificate;

1-38 (F) who may not be claimed by any other person as  
1-39 a dependent for federal income tax purposes but may claim at least  
1-40 one other person as a dependent for federal income tax purposes; or

1-41 (G) who is a single parent.

1-42 (3) "Critical field" means a field of study designated  
1-43 as a critical field under Subsection (c).

1-44 (c) Except as otherwise provided under Subdivision (2), the  
1-45 fields of engineering, computer science, mathematics, physical  
1-46 science, allied health, nursing, and teaching certification in the  
1-47 field of science or mathematics are critical fields. Beginning  
1-48 September 1, 2011, the board, based on the board's determination of  
1-49 those fields of study in which the support and development of  
1-50 postsecondary education programs at the bachelor's degree or  
1-51 advanced degree level are most critically necessary for serving the  
1-52 needs of this state, by rule may:

1-53 (1) designate as a critical field a field of study that  
1-54 is not currently designated by this subsection or by the board as a  
1-55 critical field; or

1-56 (2) remove a field of study from the list of fields  
1-57 currently designated by this subsection or by the board as critical  
1-58 fields.

1-59 (d) For each state fiscal year, the board shall distribute  
1-60 any performance incentive funds appropriated by the legislature for  
1-61 the purposes of this section, and any other funds made available for  
1-62 the purposes of this section, to institutions to which this section  
1-63 applies as follows:

2-1 (1) 50 percent in proportion to the increase, if any,  
 2-2 in the average number of degrees awarded annually by each  
 2-3 institution in the two most recent fiscal years from the average  
 2-4 number of degrees awarded annually by that institution in the two  
 2-5 fiscal years immediately preceding those fiscal years, using the  
 2-6 weights assigned to each degree under the table prescribed by  
 2-7 Subsection (e); and

2-8 (2) the remaining 50 percent in proportion to the  
 2-9 average number of degrees awarded annually by each institution in  
 2-10 the three most recent fiscal years, using the weights assigned to  
 2-11 each degree under the table prescribed by Subsection (e).

2-12 (e) A number of points is assigned for each degree awarded  
 2-13 by an eligible institution, other than a degree awarded to an  
 2-14 international student, according to the following table:

	<u>POINTS</u>
2-15 <u>Noncritical Field/Not At-Risk Student</u>	<u>1.0</u>
2-16 <u>Noncritical Field/At-Risk Student</u>	<u>2.0</u>
2-17 <u>Critical Field/Not At-Risk Student</u>	<u>2.0</u>
2-18 <u>Critical Field/At-Risk Student</u>	<u>3.0</u>

2-19 Sec. 61.9802. PERFORMANCE INCENTIVE FUNDING FOR PUBLIC  
 2-20 JUNIOR COLLEGES, PUBLIC TECHNICAL INSTITUTES, AND PUBLIC STATE  
 2-21 COLLEGES. (a) This section applies only to the following  
 2-22 institutions of higher education:

- 2-23 (1) public junior colleges;
- 2-24 (2) public technical institutes; and
- 2-25 (3) public state colleges.

2-26 (b) In this section:

2-27 (1) "At-risk student" means a student of an  
 2-28 institution to which this section applies:

2-29 (A) who graduated from high school with a  
 2-30 cumulative grade point average of less than 2.5 on a four-point  
 2-31 scale or the equivalent;

2-32 (B) who has been awarded a grant under the  
 2-33 federal Pell Grant program;

2-34 (C) who was 20 years of age or older on the date  
 2-35 the student enrolled in the institution for the first time;

2-36 (D) who initially enrolled in the institution for  
 2-37 less than 12 semester credit hours during a fall or spring semester;

2-38 (E) who did not receive a high school diploma but  
 2-39 received a high school equivalency certificate;

2-40 (F) who may not be claimed by any other person as  
 2-41 a dependent for federal income tax purposes but may claim at least  
 2-42 one other person as a dependent for federal income tax purposes; or

2-43 (G) who is a single parent.

2-44 (2) "Critical field" means a field of study designated  
 2-45 as a critical field under Subsection (c).

2-46 (c) Except as otherwise provided under Subdivision (2), the  
 2-47 fields of engineering technology, computer science, mathematics,  
 2-48 physical science, allied health, and nursing are critical fields.  
 2-49 Beginning September 1, 2011, the board, based on the board's  
 2-50 determination of those fields of study in which the support and  
 2-51 development of postsecondary education programs at the  
 2-52 lower-division level are most critically necessary for serving the  
 2-53 needs of this state, by rule may:

2-54 (1) designate as a critical field a field of study that  
 2-55 is not currently designated by this subsection or by the board as a  
 2-56 critical field; or

2-57 (2) remove a field of study from the list of fields  
 2-58 currently designated by this subsection or by the board as critical  
 2-59 fields.

2-60 (d) For each state fiscal year, the board shall distribute  
 2-61 any performance incentive funds appropriated by the legislature for  
 2-62 the purposes of this section, and any other funds made available for  
 2-63 the purposes of this section, to institutions to which this section  
 2-64 applies as follows:

2-65 (1) 50 percent in proportion to the increase, if any,  
 2-66 in the average number of student transfers described by Subsection  
 2-67 (g) from each institution that occur each year plus the average  
 2-68 number of degrees and certificates awarded annually by the  
 2-69

3-1 institution in the two most recent fiscal years from the average  
 3-2 number of student transfers described by Subsection (g) from the  
 3-3 institution that occur each year plus the average number of degrees  
 3-4 and certificates awarded annually by the institution in the two  
 3-5 fiscal years immediately preceding those fiscal years, using the  
 3-6 weights assigned to each student transfer or degree or certificate  
 3-7 under the table prescribed by Subsection (h); and  
 3-8 (2) the remaining 50 percent in proportion to the  
 3-9 average number of student transfers described by Subsection (g)  
 3-10 from each institution that occur each year plus the average number  
 3-11 of degrees and certificates awarded annually by the institution in  
 3-12 the three most recent fiscal years, using the weights assigned to  
 3-13 each student transfer or degree or certificate under the table  
 3-14 prescribed by Subsection (h).

3-15 (e) Points may not be assigned under Subsection (h) for any:  
 3-16 (1) certificate awarded in a Level 1 certificate  
 3-17 program that the board determines does not merit funding under this  
 3-18 section; or

3-19 (2) degree or certificate awarded to an international  
 3-20 student.

3-21 (f) Points may not be assigned under Subsection (h) for both  
 3-22 a student's certificate or degree and the student's transfer.  
 3-23 Points must be assigned for the student only in the category under  
 3-24 Subsection (h) in which the highest number of points will be  
 3-25 assigned for the student.

3-26 (g) Points may be assigned for a student transfer under  
 3-27 Subsection (h) only for a student of the institution who completed  
 3-28 at least 30 but not more than 70 semester credit hours at the  
 3-29 institution with a grade point average of at least 2.5 on a  
 3-30 four-point scale or the equivalent before transferring to a general  
 3-31 academic teaching institution other than a public state college.

3-32 (h) A number of points is assigned for each degree awarded  
 3-33 or student transfer by an eligible institution according to the  
 3-34 following table:

	<u>POINTS</u>
3-35 <u>Level 1 Certificate/Noncritical Field/Not</u>	<u>1.0</u>
3-36 <u>At-Risk Student</u>	
3-37 <u>Level 1 Certificate/Noncritical</u>	<u>1.5</u>
3-38 <u>Field/At-Risk Student</u>	
3-39 <u>Level 1 Certificate/Critical Field/Not</u>	<u>1.5</u>
3-40 <u>At-Risk Student</u>	
3-41 <u>Level 1 Certificate/Critical Field/At-Risk</u>	<u>2.0</u>
3-42 <u>Student</u>	
3-43 <u>Level 2 Certificate/Noncritical Field/Not</u>	<u>1.5</u>
3-44 <u>At-Risk Student</u>	
3-45 <u>Level 2 Certificate/Noncritical</u>	<u>2.0</u>
3-46 <u>Field/At-Risk Student</u>	
3-47 <u>Level 2 Certificate/Critical Field/Not</u>	<u>2.0</u>
3-48 <u>At-Risk Student</u>	
3-49 <u>Level 2 Certificate/Critical Field/At-Risk</u>	<u>2.5</u>
3-50 <u>Student</u>	
3-51 <u>Associate's Degree/Noncritical Field/Not</u>	<u>2.0</u>
3-52 <u>At-Risk Student</u>	
3-53 <u>Associate's Degree/Noncritical Field/At-Risk</u>	<u>2.5</u>
3-54 <u>Student</u>	
3-55 <u>Associate's Degree/Critical Field/Not</u>	<u>2.5</u>
3-56 <u>At-Risk Student</u>	
3-57 <u>Associate's Degree/Critical Field/At-Risk</u>	<u>3.0</u>
3-58 <u>Student</u>	
3-59 <u>Student Transfer</u>	<u>2.0</u>

3-60 Sec. 61.9803. PERFORMANCE INCENTIVE FUNDING FOR MEDICAL AND  
 3-61 DENTAL UNITS. (a) This section applies only to medical and dental  
 3-62 units.

3-63 (b) For each state fiscal year, the board shall distribute  
 3-64 any performance incentive funds appropriated by the legislature for  
 3-65 the purposes of this section, and any other funds made available for  
 3-66 the purposes of this section, to institutions to which this section  
 3-67 applies as follows:

3-68 (1) 50 percent in proportion to the increase, if any,  
 3-69

4-1 in the average number of degrees and certificates awarded by, and  
 4-2 medical residencies completed at, each institution annually in the  
 4-3 two most recent fiscal years from the average number of degrees and  
 4-4 certificates awarded by, and medical residencies completed at, that  
 4-5 institution annually in the two fiscal years immediately preceding  
 4-6 those fiscal years, using the weights assigned to each degree,  
 4-7 certificate, or medical residency completion under the table  
 4-8 prescribed by Subsection (c); and

4-9 (2) the remaining 50 percent in proportion to the  
 4-10 average number of degrees and certificates awarded by, and medical  
 4-11 residencies completed at, each institution annually in the three  
 4-12 most recent fiscal years, using the weights assigned to each  
 4-13 degree, certificate, or medical residency completion under the  
 4-14 table prescribed by Subsection (c).

4-15 (c) A number of points is assigned for each degree or  
 4-16 certificate awarded by, or medical residency completed at, an  
 4-17 eligible institution, other than a degree or certificate awarded to  
 4-18 or a medical residency completed by an international student,  
 4-19 according to the following table:

<u>TYPE OF DEGREE OR CERTIFICATE</u>	<u>POINTS</u>
<u>Certificate requiring 30-60 Semester Credit Hours</u>	<u>0.5</u>
<u>Bachelor's or Master's</u>	<u>1.0</u>
<u>Doctoral following a Master's</u>	<u>1.0</u>
<u>Doctoral following a Bachelor's</u>	<u>2.0</u>
<u>Medical or Dental</u>	<u>2.0</u>
<u>Completed Medical Residency</u>	<u>2.0</u>

4-27 Sec. 61.9804. RULES. The board shall adopt rules for the  
 4-28 administration of this subchapter.

4-29 Sec. 61.9805. REPORT TO BOARD AND LEGISLATURE BY EDUCATION  
 4-30 RESEARCH CENTER REGARDING EVALUATION OF POINT ASSIGNMENTS. Each  
 4-31 state fiscal biennium, the board shall provide for the evaluation  
 4-32 by an education research center established under Section 1.005 of  
 4-33 the points assigned under Sections 61.9801, 61.9802, and 61.9803.  
 4-34 Not later than June 1 of each even-numbered year, the education  
 4-35 research center shall submit to the board and the legislature a  
 4-36 written report regarding the center's evaluation under this  
 4-37 section, including any recommendations for changes to the points  
 4-38 assigned under those sections.

4-39 Sec. 61.9806. FEASIBILITY STUDY REGARDING DISTRIBUTION OF  
 4-40 INCENTIVE FUNDS BASED ON STUDENT ACHIEVEMENT DATA; REPORT. (a) The  
 4-41 board shall conduct a study to determine the feasibility of using  
 4-42 student achievement data as criteria for the distribution of  
 4-43 incentive funds to institutions of higher education. The board's  
 4-44 study may include an evaluation of:

- 4-45 (1) the types of student achievement data available;
- 4-46 (2) differences in degree programs and student  
 4-47 achievement data across degree programs;
- 4-48 (3) differences in student achievement data across  
 4-49 types of institutions of higher education;
- 4-50 (4) standards for measuring student achievement; and
- 4-51 (5) any other factors the board considers appropriate.

4-52 (b) Not later than December 1, 2010, the board shall submit  
 4-53 to the governor, lieutenant governor, speaker of the house of  
 4-54 representatives, and the presiding officer of each legislative  
 4-55 standing committee with primary jurisdiction over higher education  
 4-56 a written report regarding the board's findings under the study.

4-57 (c) This section expires September 1, 2011.

4-58 SECTION 2. Section 61.0591, Education Code, is repealed.

4-59 SECTION 3. The Texas Higher Education Coordinating Board  
 4-60 shall adopt rules relating to the administration of Subchapter FF,  
 4-61 Chapter 61, Education Code, as added by this Act, as soon as  
 4-62 practicable after the effective date of this Act.

4-63 SECTION 4. The Texas Higher Education Coordinating Board  
 4-64 shall conduct a study of whether bilingual education is a critical  
 4-65 field for the purposes of Subchapter FF, Chapter 61, Education  
 4-66 Code, as added by this Act.

4-67 SECTION 5. This Act does not make an appropriation. This  
 4-68 Act takes effect only if a specific appropriation for the  
 4-69 implementation of this Act is provided in a general appropriations

5-1 act of the 81st Legislature.

5-2 SECTION 6. This Act takes effect September 1, 2009.

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