

By: Farrar, Flores

H.B. No. 4091

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to bilingual education, English as a second language, and  
3 other special language programs and to an intensive reading  
4 improvement program for public school students of limited English  
5 proficiency.

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

7 SECTION 1. Section 29.062, Education Code, is amended to  
8 read as follows:

9 Sec. 29.062. COMPLIANCE. (a) The legislature recognizes  
10 that compliance with this subchapter is an imperative public  
11 necessity. Therefore, in accordance with the policy of the state,  
12 the agency shall evaluate the effectiveness of programs under this  
13 subchapter based on the following data, disaggregated by campus and  
14 school district or open-enrollment charter school, which each  
15 district and open-enrollment charter school shall collect and  
16 provide to the agency:

17 (1) the academic excellence indicators adopted under  
18 Section 39.051(a), including the results of assessment  
19 instruments;

20 (2) the difference in grade-level retention rates  
21 between students of limited English proficiency and students who  
22 are not students of limited English proficiency;

23 (3) any significant difference in performance on  
24 assessment instruments required under Sections 39.023(a), (c), and

1 (1), as applicable, between students of limited English proficiency  
2 at the campus or in the district or open-enrollment charter school  
3 being evaluated and the state average performance on those  
4 assessment instruments of students who are not students of limited  
5 English proficiency; and

6 (4) any significant difference in the dropout rate for  
7 grade levels 9 through 12 between students of limited English  
8 proficiency at the campus or in the district or open-enrollment  
9 charter school being evaluated and the state average dropout rate  
10 of students who are not students of limited English proficiency.

11 (b) Notwithstanding Subsection (a), for a campus with fewer  
12 than 30 students enrolled in bilingual education or English as a  
13 second language or other special language programs, the agency  
14 shall evaluate information specified under Subsection (a) only at  
15 the district level.

16 (b-1) The agency may combine but may not replace evaluations  
17 under this section with federal accountability measures concerning  
18 students of limited English proficiency.

19 (b-2) Each person considered by the agency to be the lead  
20 monitor evaluating the effectiveness of programs under this  
21 subchapter must be appropriately certified by the State Board for  
22 Educator Certification as provided for under Section 29.061 for  
23 English as a second language. An emergency endorsement issued  
24 under Section 29.061(a) is not considered appropriate  
25 certification for purposes of this subsection.

26 ~~[(b) The areas to be monitored shall include:~~

27 ~~[(1) program content and design;~~

1           ~~[(2) program coverage,~~  
2           ~~[(3) identification procedures,~~  
3           ~~[(4) classification procedures,~~  
4           ~~[(5) staffing,~~  
5           ~~[(6) learning materials,~~  
6           ~~[(7) testing materials,~~  
7           ~~[(8) reclassification of students for either entry~~  
8 ~~into regular classes conducted exclusively in English or reentry~~  
9 ~~into a bilingual education or special education program; and~~  
10           ~~[(9) activities of the language proficiency~~  
11 ~~assessment committees.]~~

12           (c) If, as a result of an evaluation under Subsection (a),  
13 the agency determines that a school district, campus, or  
14 open-enrollment charter school program under this chapter is  
15 ineffective, the agency shall intervene in the program ~~[Not later~~  
16 ~~than the 30th day after the date of an on-site monitoring~~  
17 ~~inspection, the agency shall report its findings to the school~~  
18 ~~district or open-enrollment charter school and to the division of~~  
19 ~~accreditation].~~

20           (d) The agency shall notify a school district, and if  
21 applicable, a campus, or an open-enrollment charter school ~~[found~~  
22 ~~in noncompliance]~~ in writing of an intervention under Subsection  
23 (c)[7] not later than the 30th day after the first day ~~[date]~~ of the  
24 intervention ~~[on-site monitoring. The district or open-enrollment~~  
25 ~~charter school shall take immediate corrective action].~~

26           (d-1) The school district, campus, or open-enrollment  
27 charter school with a program determined under this section to be

1 ineffective shall immediately review the following to evaluate  
2 program effectiveness further:

3 (1) procedures for identification of students of  
4 limited English proficiency;

5 (2) procedures for placement of students in a program  
6 under this subchapter;

7 (3) student assessment procedures, including  
8 assessment of:

9 (A) English language proficiency; and

10 (B) academic achievement in, as defined by  
11 commissioner rule, core content areas;

12 (4) provision of instruction under the program,  
13 including assessment of the quality of instruction and whether the  
14 program is being implemented as designed;

15 (5) credentials of instructional staff, including:

16 (A) appropriate certification of teachers  
17 providing English language development or content area instruction  
18 to students of limited English proficiency; and

19 (B) the amount of instruction provided by  
20 teachers who hold emergency endorsements or who are teaching  
21 outside the teacher's area of specialization;

22 (6) professional development provided to content area  
23 teachers serving students of limited English proficiency;

24 (7) curricular materials used in providing  
25 instruction;

26 (8) district-level program evaluation procedures,  
27 including procedures for:

1           (A) ongoing district-level monitoring to  
2 identify program components needing improvement and implementing  
3 identified improvements; and

4           (B) identifying and closing any academic  
5 achievement gap between students of limited English proficiency and  
6 students who are not students of limited English proficiency;

7           (9) a rate of parental denial of approval of a  
8 student's entry into or placement in a program under this  
9 subchapter that is at least 150 percent greater than the state  
10 average rate of parental denial;

11           (10) any variance of greater than 20 percent between  
12 the percentage of students identified as students of limited  
13 English proficiency and the percentage of students who speak a  
14 language other than English at home, as determined by the home  
15 language survey administered to all students new to a campus,  
16 district, or open-enrollment charter school as provided by Section  
17 29.056(a)(1); and

18           (11) reclassification of students for either entry  
19 into regular classes conducted exclusively in English or reentry  
20 into a bilingual education or special education program.

21           (d-2) On completion of the review under Subsection (d-1),  
22 the campus, district, or open-enrollment charter school shall  
23 designate annual program improvement goals that:

24           (1) are designed to improve academic achievement in  
25 the core content areas by students of limited English proficiency;  
26 and

27           (2) are based on the extent of any academic

1 achievement gap identified under Subsection (d-1)(8)(B), with  
2 incremental improvement goals established according to the size of  
3 the achievement gap.

4 (d-3) The agency shall review annual improvement in a  
5 program under this subchapter as measured by the goals designated  
6 under Subsection (d-2). The agency shall take appropriate  
7 corrective action for a campus, school district, or open-enrollment  
8 charter school program that fails to meet one or more annual  
9 improvement goals for two or more consecutive school years.

10 (e) If a campus, school district, or open-enrollment  
11 charter school program under this subchapter fails to satisfy  
12 appropriate standards adopted by the commissioner for purposes of  
13 Subsection (d-3) [~~(a)~~], the agency shall apply sanctions, which may  
14 include the removal of accreditation, loss of foundation school  
15 funds, or both.

16 (f) The commissioner shall adopt rules consistent with this  
17 section as necessary to administer this section.

18 SECTION 2. Subchapter B, Chapter 29, Education Code, is  
19 amended by adding Section 29.069 to read as follows:

20 Sec. 29.069. OPTIONAL INTENSIVE READING IMPROVEMENT  
21 PROGRAM. (a) A school district may provide to students of limited  
22 English proficiency, in accordance with this section, a reading  
23 improvement program that is designed to:

24 (1) enable students to read proficiently; and  
25 (2) increase the likelihood that students will  
26 graduate from high school.

27 (b) A program under this section must:

1           (1) include a research-based curriculum designed to  
2 guide students toward reading proficiency;

3           (2) include assessments that are approved by the  
4 agency and designed to measure growth in a student's vocabulary and  
5 reading comprehension;

6           (3) provide individualized, intensive, and  
7 accelerated instruction;

8           (4) be aligned with the required curriculum under  
9 Section 28.002;

10          (5) include a comprehensive system of support for  
11 teachers that includes in-person training, access to online  
12 professional development, and ongoing consultation throughout the  
13 school year; and

14          (6) include teacher training materials and other  
15 teacher training resources, including resource guides, to assist  
16 teachers in enabling students of limited English proficiency to  
17 meet state performance expectations, including performance  
18 expectations on assessment instruments administered under  
19 Subchapter B, Chapter 39.

20          (c) The results of assessments required under Subsection  
21 (b)(2) must be accessible through an Internet data management  
22 system:

23           (1) to appropriate teachers and administrators; and

24           (2) to the parent of a student participating in the  
25 program.

26          (d) A program under this section may include computer-based  
27 instruction that makes available additional reading practice for

1 students participating in the program.

2 (e) A school district providing a program under this section  
3 shall begin providing instruction under the program to a student of  
4 limited English proficiency before the student enters the seventh  
5 grade.

6 (f) A school district providing a program under this section  
7 shall begin providing instruction under the program to a student of  
8 limited English proficiency within six weeks of receipt of Notice  
9 of Grant Award (NOGA).

10 (g) Not later than January 31 and June 1 of each school year,  
11 beginning in June 2010, a school district providing a program under  
12 this section shall submit to the agency a written report on the  
13 progress in reading of students participating in the district's  
14 program. The commissioner by rule may specify the format of and  
15 information to be provided in the report. The agency also may  
16 collect information from each district providing a program under  
17 this section to evaluate program effectiveness.

18 SECTION 3. Section 39.024(e), Education Code, is amended to  
19 read as follows:

20 (e) The commissioner shall retain a portion of the total  
21 amount of funds allotted under Section 42.152(a) that the  
22 commissioner considers appropriate to finance activities under  
23 Subsection [~~Subsections~~] (c) and may retain a portion for  
24 activities under Section 29.069 [~~Subsection (d)~~] and for other  
25 intensive programs of instruction for students of limited English  
26 proficiency offered by school districts and shall reduce each  
27 district's allotment proportionately.



1 SECTION 4. Section 42.006, Education Code, is amended by  
2 adding Subsection (f) to read as follows:

3 (f) The commissioner shall adopt rules to ensure that,  
4 through the Public Education Information Management System, the  
5 agency collects and maintains data regarding:

6 (1) whether a student is or while enrolled in a public  
7 school in this state has ever been classified as a student of  
8 limited English proficiency;

9 (2) the school year in which a student first entered  
10 ninth grade; and

11 (3) a student's status as:

12 (A) a continuing student;

13 (B) a high school graduate;

14 (C) a recipient of a high school equivalency  
15 certificate; or

16 (D) a dropout.

17 SECTION 5. This Act does not make an appropriation. A  
18 provision in this Act that creates a new governmental program,  
19 creates a new entitlement, or imposes a new duty on a governmental  
20 entity is not mandatory during a fiscal period for which the  
21 legislature has not made a specific appropriation to implement the  
22 provision.

23 SECTION 6. (a) Except as provided by Subsection (b) of this  
24 section, this Act applies beginning with the 2009-2010 school year.

25 (b) Section 29.062, Education Code, as amended by this Act,  
26 and Section 42.006(f), Education Code, as added by this Act, apply  
27 beginning with the 2010-2011 school year.

1           SECTION 7. This Act takes effect immediately if it receives  
2 a vote of two-thirds of all the members elected to each house, as  
3 provided by Section 39, Article III, Texas Constitution. If this  
4 Act does not receive the vote necessary for immediate effect, this  
5 Act takes effect September 1, 2009.