

1-1 By: Zaffirini, Van de Putte S.B. No. 548  
1-2 (In the Senate - Filed January 26, 2009; February 17, 2009,  
1-3 read first time and referred to Committee on Education;  
1-4 April 27, 2009, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 27, 2009,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 548 By: Gallegos

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

1-10 relating to public school accountability for bilingual education  
1-11 and English as a second language and other special language  
1-12 programs.

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

1-14 SECTION 1. Section 29.062, Education Code, is amended to  
1-15 read as follows:

1-16 Sec. 29.062. COMPLIANCE. (a) The legislature recognizes  
1-17 that compliance with this subchapter is an imperative public  
1-18 necessity. Therefore, in accordance with the policy of the state,  
1-19 the agency shall evaluate the effectiveness of programs under this  
1-20 subchapter based on the following data, disaggregated by campus and  
1-21 school district or open-enrollment charter school, which each  
1-22 district and open-enrollment charter school shall collect and  
1-23 provide to the agency:

1-24 (1) the academic excellence indicators adopted under  
1-25 Section 39.051(a), including the results of assessment  
1-26 instruments;

1-27 (2) the difference in grade-level retention rates  
1-28 between students of limited English proficiency and students who  
1-29 are not students of limited English proficiency;

1-30 (3) any significant difference in performance on  
1-31 assessment instruments required under Sections 39.023(a), (c), and  
1-32 (1), as applicable, between students of limited English proficiency  
1-33 at the campus or in the district or open-enrollment charter school  
1-34 being evaluated and the state average performance on those  
1-35 assessment instruments of students who are not students of limited  
1-36 English proficiency; and

1-37 (4) any significant difference in the dropout rate for  
1-38 grade levels 9 through 12 between students of limited English  
1-39 proficiency at the campus or in the district or open-enrollment  
1-40 charter school being evaluated and the state average dropout rate  
1-41 of students who are not students of limited English proficiency.

1-42 (b) Notwithstanding Subsection (a), for a campus with fewer  
1-43 than 30 students enrolled in bilingual education or English as a  
1-44 second language or other special language programs, the agency  
1-45 shall evaluate information specified under Subsection (a) only at  
1-46 the district level.

1-47 (b-1) The agency may combine but may not replace evaluations  
1-48 under this section with federal accountability measures concerning  
1-49 students of limited English proficiency.

1-50 (b-2) Each person considered by the agency to be the lead  
1-51 monitor evaluating the effectiveness of programs under this  
1-52 subchapter must be appropriately certified by the State Board for  
1-53 Educator Certification as provided for under Section 29.061 for  
1-54 English as a second language. An emergency endorsement issued  
1-55 under Section 29.061(a) is not considered appropriate  
1-56 certification for purposes of this subsection.

1-57 ~~[(b) The areas to be monitored shall include:~~

1-58 ~~[(1) program content and design,~~

1-59 ~~[(2) program coverage,~~

1-60 ~~[(3) identification procedures,~~

1-61 ~~[(4) classification procedures,~~

1-62 ~~[(5) staffing,~~

1-63 ~~[(6) learning materials,~~

~~[(7) testing materials,~~  
~~[(8) reclassification of students for either entry~~  
~~into regular classes conducted exclusively in English or reentry~~  
~~into a bilingual education or special education program; and~~  
~~[(9) activities of the language proficiency~~  
~~assessment committees.]~~

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

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

(d-1) The school district, campus, or open-enrollment  
charter school with a program determined under this section to be  
ineffective shall immediately review the following to evaluate  
program effectiveness further:

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

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

(3) student assessment procedures, including  
assessment of:

(A) English language proficiency; and  
(B) academic achievement in, as defined by  
commissioner rule, core content areas;

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

(5) credentials of instructional staff, including:  
(A) appropriate certification of teachers  
providing English language development or content area instruction  
to students of limited English proficiency; and

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

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

(7) curricular materials used in providing  
instruction;

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

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

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

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

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

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

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

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

(2) are based on the extent of any academic achievement gap identified under Subsection (d-1)(8)(B), with incremental improvement goals established according to the size of the achievement gap.

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

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

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

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

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

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

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

(3) a student's status as:  
 (A) a continuing student;  
 (B) a high school graduate;  
 (C) a recipient of a high school equivalency certificate; or

(D) a dropout.

SECTION 3. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

SECTION 4. This Act applies beginning with the 2010-2011 school year.

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

\* \* \* \* \*