

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Lozano

H.B. No. 1553

A BILL TO BE ENTITLED

1 AN ACT

2 relating to permitting a school district that has failed to satisfy  
3 performance standards to partner with an institution of higher  
4 education to improve district performance.

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

6 SECTION 1. Section 39.102(a), Education Code, is amended to  
7 read as follows:

8 (a) If a school district does not satisfy the accreditation  
9 criteria under Section 39.052, the academic performance standards  
10 under Section 39.053 or 39.054, or any financial accountability  
11 standard as determined by commissioner rule, or if considered  
12 appropriate by the commissioner on the basis of a special  
13 accreditation investigation under Section 39.057, the commissioner  
14 shall take any of the following actions to the extent the  
15 commissioner determines necessary:

16 (1) issue public notice of the deficiency to the board  
17 of trustees;

18 (2) order a hearing conducted by the board of trustees  
19 of the district for the purpose of notifying the public of the  
20 insufficient performance, the improvements in performance expected  
21 by the agency, and the interventions and sanctions that may be  
22 imposed under this section if the performance does not improve;

23 (3) order the preparation of a student achievement  
24 improvement plan that addresses each academic achievement

1 indicator under Section 39.053(c) for which the district's  
2 performance is insufficient, the submission of the plan to the  
3 commissioner for approval, and implementation of the plan;

4 (4) order a hearing to be held before the commissioner  
5 or the commissioner's designee at which the president of the board  
6 of trustees of the district and the superintendent shall appear and  
7 explain the district's low performance, lack of improvement, and  
8 plans for improvement;

9 (5) arrange a monitoring review of the district;

10 (6) appoint an agency monitor to participate in and  
11 report to the agency on the activities of the board of trustees or  
12 the superintendent;

13 (7) appoint a conservator to oversee the operations of  
14 the district;

15 (8) appoint a management team to direct the operations  
16 of the district in areas of insufficient performance or require the  
17 district to obtain certain services under a contract with another  
18 person;

19 (9) authorize the district to enter into a memorandum  
20 of understanding with an institution of higher education that  
21 provides for the assistance of the institution of higher education  
22 in improving the district's performance;

23 (10) if a district has a current accreditation status  
24 of accredited-warned or accredited-probation, fails to satisfy any  
25 standard under Section 39.054(e), or fails to satisfy financial  
26 accountability standards as determined by commissioner rule,  
27 appoint a board of managers to exercise the powers and duties of the

1 board of trustees;

2 (11) [~~(10)~~] if for two consecutive school years,  
3 including the current school year, a district has received an  
4 accreditation status of accredited-warned or accredited-probation,  
5 has failed to satisfy any standard under Section 39.054(e), or has  
6 failed to satisfy financial accountability standards as determined  
7 by commissioner rule, revoke the district's accreditation and:

8 (A) order closure of the district and annex the  
9 district to one or more adjoining districts under Section 13.054;  
10 or

11 (B) in the case of a home-rule school district or  
12 open-enrollment charter school, order closure of all programs  
13 operated under the district's or school's charter; or

14 (12) [~~(11)~~] if a district has failed to satisfy any  
15 standard under Section 39.054(e) due to the district's dropout  
16 rates, impose sanctions designed to improve high school completion  
17 rates, including:

18 (A) ordering the development of a dropout  
19 prevention plan for approval by the commissioner;

20 (B) restructuring the district or appropriate  
21 school campuses to improve identification of and service to  
22 students who are at risk of dropping out of school, as defined by  
23 Section 29.081;

24 (C) ordering lower student-to-counselor ratios  
25 on school campuses with high dropout rates; and

26 (D) ordering the use of any other intervention  
27 strategy effective in reducing dropout rates, including mentor

1 programs and flexible class scheduling.

2 SECTION 2. Section 39.111(c), Education Code, is amended to  
3 read as follows:

4 (c) A conservator or management team, if directed by the  
5 commissioner, shall prepare a plan for the implementation of action  
6 under Section 39.102(a)(10) or (11) [~~39.102(a)(9) or (10)~~]. The  
7 conservator or management team:

8 (1) may direct an action to be taken by the principal  
9 of a campus, the superintendent of the district, or the board of  
10 trustees of the district;

11 (2) may approve or disapprove any action of the  
12 principal of a campus, the superintendent of the district, or the  
13 board of trustees of the district;

14 (3) may not take any action concerning a district  
15 election, including ordering or canceling an election or altering  
16 the date of or the polling places for an election;

17 (4) may not change the number of or method of selecting  
18 the board of trustees;

19 (5) may not set a tax rate for the district; and

20 (6) may not adopt a budget for the district that  
21 provides for spending a different amount, exclusive of required  
22 debt service, from that previously adopted by the board of  
23 trustees.

24 SECTION 3. This Act applies beginning with the 2017-2018  
25 school year.

26 SECTION 4. This Act takes effect immediately if it receives  
27 a vote of two-thirds of all the members elected to each house, as

H.B. No. 1553

1 provided by Section 39, Article III, Texas Constitution. If this  
2 Act does not receive the vote necessary for immediate effect, this  
3 Act takes effect September 1, 2017.

ADOPTED

MAY 23 2017

FLOOR AMENDMENT NO. 1

*L. Taylor*  
Secretary of the Senate

BY:

*L. Taylor*

1 Amend H.B. No. 1553 by adding the following appropriately  
2 numbered SECTIONS to the bill and renumbering SECTIONS of the  
3 bill accordingly:

4 SECTION \_\_. Section 7.055(b), Education Code, is amended  
5 by adding Subdivision (42) to read as follows:

6 (42) The commissioner may accept a gift, grant, donation,  
7 or other contribution on behalf of the public school system or  
8 agency and, unless otherwise specified by the donor, may use the  
9 contribution in the manner the commissioner determines.

10 SECTION \_\_. Subchapter C, Chapter 7, Education Code, is  
11 amended by adding Section 7.067 to read as follows:

12 Sec. 7.067. GRANT COMPLIANCE. (a) The commissioner may:

13 (1) adopt rules to ensure that recipients of state-  
14 funded grants administered by the commissioner or the agency are  
15 in compliance with grant requirements; and

16 (2) require a grant recipient to provide information  
17 to the agency detailing grant compliance.

18 (b) The commissioner may direct the agency to make a site  
19 visit to a grant recipient to review the recipient's compliance  
20 with grant requirements. A review conducted under this  
21 subsection is not subject to Section 7.028 or 39.056.

22 (c) If the commissioner finds that a grant recipient is  
23 not in compliance with grant requirements, the commissioner may:

24 (1) seek the remittance of the grant funds; and

25 (2) withhold funding authorized under Section 12.106  
26 or Chapter 42 or any other state funding in an amount sufficient  
27 to recover the grant funds provided to the recipient.

28 (d) A decision of the commissioner regarding grant  
29 compliance, including a decision to withhold funding under

1 Subsection (c), is final and may not be appealed.

2 SECTION \_\_. Section 12.1012, Education Code, is amended by  
3 adding Subdivisions (7) and (8) to read as follows:

4 (7) "Payable obligation" means a contractually  
5 obligated expenditure that was reasonably incurred for the  
6 benefit of students enrolled at an open-enrollment charter  
7 school before the open-enrollment charter school ceased  
8 operations, including a debt described by Section 12.128(e).  
9 The term does not include any amount owed to a former charter  
10 holder or officer or director of the school.

11 (8) "Remaining funds" means funds that are held by a  
12 former charter holder after satisfaction of all payable  
13 obligations and that were received:

14 (A) under Section 12.106; or

15 (B) from the disposition of property.

16 SECTION \_\_. Subchapter D, Chapter 12, Education Code, is  
17 amended by adding Section 12.10125 to read as follows:

18 Sec. 12.10125. OPEN-ENROLLMENT CHARTER SCHOOL NOT IN  
19 OPERATION. An open-enrollment charter school ceases to operate  
20 if:

21 (1) the school's charter:

22 (A) has been revoked;

23 (B) has expired;

24 (C) has been surrendered; or

25 (D) has been abandoned; or

26 (2) the school has otherwise ceased operation as a  
27 public school.

28 SECTION \_\_. Section 12.106, Education Code, is amended by  
29 adding Subsections (d), (e), and (f) to read as follows:

30 (d) Except as provided by Subsection (e), all remaining  
31 funds of a charter holder for an open-enrollment charter school

1 that ceases to operate must be returned to the agency and  
2 deposited in the charter school liquidation fund.

3 (e) The agency may approve a transfer of a charter  
4 holder's remaining funds to another charter holder if the  
5 charter holder receiving the funds has not received notice of  
6 the expiration or revocation of the charter holder's charter for  
7 an open-enrollment charter school or notice of a reconstitution  
8 of the governing body of the charter holder under Section  
9 12.1141 or 12.115.

10 (f) The commissioner may adopt rules specifying:

11 (1) the time during which a former charter holder  
12 must return remaining funds under Subsection (d); and

13 (2) the qualifications required for a charter holder  
14 to receive a transfer of remaining funds under Subsection (e).

15 SECTION \_\_. Section 12.107(a), Education Code, is amended  
16 to read as follows:

17 (a) Funds received under Section 12.106 after September 1,  
18 2001, by a charter holder:

19 (1) are considered to be public funds for all  
20 purposes under state law;

21 (2) are held in trust by the charter holder for the  
22 benefit of the students of the open-enrollment charter school;

23 (3) may be used only for a purpose for which a school  
24 may use local funds under Section 45.105(c); ~~and~~

25 (4) pending their use, must be deposited into a bank,  
26 as defined by Section 45.201, with which the charter holder has  
27 entered into a depository contract; and

28 (5) may not:

29 (A) be pledged or used to secure loans or bonds  
30 for any other organization, including a non-charter operation or  
31 out-of-state operation conducted by the charter holder or a



1 related party; or

2 (B) be used to support an operation or activity  
3 not related to the educational activities of the charter holder.

4 SECTION \_\_. Section 12.1163, Education Code, is amended by  
5 adding Subsection (d) to read as follows:

6 (d) An audit under Subsection (a) may include the review  
7 of any real property transactions between the charter holder and  
8 a related party, as defined by commissioner rule adopted under  
9 Section 12.1166. If the commissioner determines that a  
10 transaction with a related party using funds received under  
11 Section 12.106 was structured in a manner that did not benefit  
12 the open-enrollment charter school or that the transaction was  
13 in excess of fair market value as determined under Section  
14 12.1167, the commissioner may order that the transaction be  
15 reclassified or that other action be taken as necessary to  
16 protect the school's interests. Failure to comply with the  
17 commissioner's order is a material violation of the charter.

18 SECTION \_\_. Subchapter D, Chapter 12, Education Code, is  
19 amended by adding Sections 12.1166, 12.1167, and 12.1168 to read  
20 as follows:

21 Sec. 12.1166. RELATED PARTY TRANSACTIONS. (a) The  
22 commissioner shall adopt a rule defining "related party" for  
23 purposes of this subchapter. The definition of "related party"  
24 must include:

25 (1) a party with a current or former board member,  
26 administrator, or officer who is:

27 (A) a board member, administrator, or officer of  
28 an open-enrollment charter school; or

29 (B) related within the third degree of  
30 consanguinity or affinity, as determined under Chapter 573,  
31 Government Code, to a board member, administrator, or officer of

1 an open-enrollment charter school;

2 (2) a charter holder's related organizations, joint  
3 ventures, and jointly governed organizations;

4 (3) an open-enrollment charter school's board  
5 members, administrators, or officers or a person related to a  
6 board member, administrator, or officer within the third degree  
7 of consanguinity or affinity, as determined under Chapter 573,  
8 Government Code; and

9 (4) any other disqualified person, as that term is  
10 defined by 26 U.S.C. Section 4958(f).

11 (b) For purposes of Subsection (a)(1), a person is a  
12 former board member, administrator, or officer if the person  
13 served in that capacity within one year of the date on which a  
14 financial transaction between the charter holder and a related  
15 party occurred.

16 (c) In a charter holder's annual audit filed under Section  
17 44.008, the charter holder must include a list of all  
18 transactions with a related party.

19 Sec. 12.1167. APPRAISAL OF CERTAIN PROPERTY. The  
20 commissioner may adopt rules to require an open-enrollment  
21 charter school to:

22 (1) notify the commissioner that the school intends  
23 to enter into a transaction with a related party; and

24 (2) provide an appraisal from a certified appraiser  
25 to the agency.

26 Sec. 12.1168. FINANCIAL REPORT OF CERTAIN SCHOOLS.

27 (a) In this section, "related party" has the meaning adopted by  
28 commissioner rule under Section 12.1166.

29 (b) A financial report filed under Section 44.008 by an  
30 open-enrollment charter school must separately disclose:

31 (1) all financial transactions between the open-

1 enrollment charter school and any related party, separately  
2 stating the principal, interest, and lease payments; and

3 (2) the total compensation and benefits provided by  
4 the school and any related party for each member of the  
5 governing body and each officer and administrator of the school  
6 and the related party.

7 (c) The commissioner may adopt rules to implement this  
8 section.

9 SECTION \_\_. Section 12.128, Education Code, is amended by  
10 amending Subsections (a) and (c) and adding Subsections (a-1),  
11 (b-1), (b-2), (c-1), (c-2), and (f) to read as follows:

12 (a) Property purchased [~~or leased~~] with funds received by  
13 a charter holder under Section 12.106 after September 1, 2001:

14 (1) is considered to be public property for all  
15 purposes under state law;

16 (2) is property of this state held in trust by the  
17 charter holder for the benefit of the students of the open-  
18 enrollment charter school; and

19 (3) may be used only for a purpose for which a school  
20 district may use school district property.

21 (a-1) Property leased with funds received by a charter  
22 holder under Section 12.106 after September 1, 2001:

23 (1) is considered to be public property for all  
24 purposes under state law;

25 (2) is property of this state held in trust by the  
26 charter holder for the benefit of the students of the open-  
27 enrollment charter school; and

28 (3) may be used only for a purpose for which a school  
29 district may use school district property.

30 (b-1) Subject to Subsection (b-2), while an open-  
31 enrollment charter school is in operation, the charter holder

1 holds title to any property described by Subsection (a) or (b)  
2 and may exercise complete control over the property as permitted  
3 under the law.

4 (b-2) A charter holder may not transfer, sell, or  
5 otherwise dispose of any property described by this section  
6 without the prior written consent of the agency if:

7 (1) the charter holder has received notice of:

8 (A) the expiration of the charter holder's  
9 charter under Section 12.1141 and the charter has not been  
10 renewed; or

11 (B) the charter's revocation under Section  
12 12.115(c);

13 (2) the charter holder has received notice that the  
14 open-enrollment charter school is under discretionary review by  
15 the commissioner, which may result in the revocation of the  
16 charter or a reconstitution of the governing body of the charter  
17 holder under Section 12.115; or

18 (3) the open-enrollment charter school for which the  
19 charter is held has otherwise ceased to operate.

20 (c) The commissioner shall:

21 (1) take possession and assume control of the  
22 property described by Subsection (a) of an open-enrollment  
23 charter school that ceases to operate; and

24 (2) supervise the disposition of the property in  
25 accordance with this subchapter [~~law~~].

26 (c-1) Notwithstanding Subsection (c), if an open-  
27 enrollment charter school ceases to operate, the agency:

28 (1) for property purchased with state funds, shall  
29 direct the charter holder to dispose of the property through one  
30 of the following methods:

31 (A) retain or liquidate the property and provide

1 reimbursement to the state as provided by Section 12.1281;

2 (B) transfer the property to:

3 (i) the agency under Section 12.1281(h); or

4 (ii) a school district or open-enrollment  
5 charter school under Section 12.1282;

6 (C) close the operations of the open-enrollment  
7 charter school under Section 12.1284; or

8 (D) take any combination of the actions  
9 described by Paragraphs (A), (B), and (C); and

10 (2) for property leased with state funds, may direct  
11 the charter holder to assign the charter holder's interest in  
12 the lease to the agency.

13 (c-2) The agency may approve an expenditure of remaining  
14 funds by a former charter holder for insurance or utilities for  
15 or maintenance, repairs, or improvements to property described  
16 by this section if the agency determines that the expenditure is  
17 reasonably necessary to dispose of the property or preserve the  
18 property's value.

19 (f) A decision by the agency under this section is final  
20 and may not be appealed.

21 SECTION \_\_. Subchapter D, Chapter 12, Education Code, is  
22 amended by adding Sections 12.1281, 12.1282, 12.1283, and  
23 12.1284 to read as follows:

24 Sec. 12.1281. DISPOSITION OF PROPERTY PURCHASED WITH STATE  
25 FUNDS. (a) A former charter holder of an open-enrollment  
26 charter school that has ceased to operate may retain property  
27 described by Section 12.128 if the former charter holder  
28 reimburses the state with non-state funds and the former charter  
29 holder:

30 (1) provides written assurance that the requirements  
31 of Section 12.1284 will be met; and

1           (2) receives approval from the agency.

2           (b) On receiving consent from the agency under Section  
3 12.128(b-2) and a written agreement from any creditor with a  
4 security interest described by Section 12.128(e), the former  
5 charter holder may:

6           (1) sell property for fair market value; or

7           (2) transfer property to an open-enrollment charter  
8 school or a school district as provided under Section 12.1282.

9           (c) The amount of funds the state is entitled to as  
10 reimbursement for property of a former charter holder is:

11           (1) for property retained by the former charter  
12 holder, the current fair market value less the amount of any  
13 debt subject to a security interest or lien described by Section  
14 12.128(e), multiplied by the percentage of state funds used to  
15 purchase the property; or

16           (2) for property sold by the former charter holder,  
17 the net sales proceeds of the property multiplied by the  
18 percentage of state funds used to purchase the property.

19           (d) To determine the amount of state funds a former  
20 charter holder used to purchase property, the agency shall  
21 calculate:

22           (1) an estimated state reimbursement amount based on  
23 the last annual financial report filed under Section 44.008  
24 available at the time the former charter holder retains or sells  
25 the property; and

26           (2) a final state reimbursement amount using the  
27 former charter holder's final financial audit filed under  
28 Section 44.008.

29           (e) A former charter holder retaining property under  
30 Subsection (a) or selling the property under Subsection (b)(1)  
31 shall:

1           (1) file an affidavit in the real property records of  
2 the county in which the property is located disclosing the state  
3 interest in the property;

4           (2) place in escrow with the state comptroller an  
5 amount of non-state funds equal to 110 percent of the estimated  
6 state reimbursement amount not later than:

7           (A) the closing date of the sale of the property  
8 if the charter holder is selling the property; or

9           (B) the 90th day after the charter school's last  
10 day of instruction if the charter holder is retaining the  
11 property; and

12           (3) not later than two weeks after the date the  
13 charter holder's final financial audit is filed under Section  
14 44.008, submit to the state the final state reimbursement amount  
15 using the funds in escrow in addition to any other funds  
16 necessary to pay the full amount of state reimbursement.

17           (f) A former charter holder may retain any funds remaining  
18 after complying with this section.

19           (g) As soon as the agency is satisfied that the former  
20 charter holder complied with Subsection (e), the agency shall  
21 file written notice of the release of the state interest in  
22 property the former charter holder retains under this section  
23 and authorize the return of any funds not used for state  
24 reimbursement to the former charter holder.

25           (h) Subject to the satisfaction of any security interest  
26 or lien described by Section 12.128(e), if a former charter  
27 holder does not dispose of property under Subsection (a) or (b),  
28 the former charter holder shall transfer the property, including  
29 a conveyance of title, to the agency in accordance with the  
30 procedures and time requirements established by the agency.

31           (i) Subject to the satisfaction of any security interest

1 or lien described by Section 12.128(e), if the agency determines  
2 a former charter holder failed to comply with this section or  
3 Section 12.1282, on request of the agency, the attorney general  
4 shall take any appropriate legal action to compel the former  
5 charter holder to convey title to the agency or other  
6 governmental entity authorized by the agency to maintain or  
7 dispose of property.

8 (j) A decision by the agency under this section is final  
9 and may not be appealed.

10 (k) The commissioner may adopt rules necessary to  
11 administer this section.

12 Sec. 12.1282. TRANSFER OF PROPERTY PURCHASED WITH STATE  
13 FUNDS. (a) The agency may approve the transfer of property  
14 described by Section 12.128 from an open-enrollment charter  
15 school that has ceased to operate, or may transfer property  
16 conveyed to the agency by the former charter holder under  
17 Section 12.1281, to a school district or an open-enrollment  
18 charter school if:

19 (1) the open-enrollment charter school or school  
20 district receiving the property:

21 (A) agrees to the transfer; and

22 (B) agrees to identify the property as purchased  
23 wholly or partly using state funds on the school's annual  
24 financial report filed under Section 44.008;

25 (2) any creditor with a security interest in or lien  
26 on the property described by Section 12.128(e) agrees to the  
27 transfer; and

28 (3) the transfer of the property does not make the  
29 open-enrollment charter school or school district receiving the  
30 property insolvent.

31 (b) Property received by an open-enrollment charter school



1 or school district under this section is considered to be state  
2 property under Section 12.128(a).

3 (c) The commissioner may adopt rules necessary to  
4 administer this section, including rules establishing  
5 qualifications and priority for a school district or open-  
6 enrollment charter school to receive a transfer of property  
7 under this section.

8 (d) If the agency determines that the cost of disposing of  
9 personal property described by Section 12.128 transferred to the  
10 agency by an open-enrollment charter school that ceases to  
11 operate exceeds the return of value from the sale of the  
12 property, the agency may distribute the personal property to  
13 open-enrollment charter schools and school districts in a manner  
14 determined by the commissioner.

15 (e) A determination by the agency under this section is  
16 final and may not be appealed.

17 Sec. 12.1283. SALE OF PROPERTY PURCHASED WITH STATE FUNDS.

18 (a) After the agency receives title to property described by  
19 Section 12.128, the agency may sell the property at any price  
20 acceptable to the agency.

21 (b) On request of the agency, the following state agencies  
22 shall enter into a memorandum of understanding to sell property  
23 for the agency:

24 (1) for real property, the General Land Office; and  
25 (2) for personal property, the Texas Facilities  
26 Commission.

27 (c) A memorandum of understanding entered into as provided  
28 by Subsection (b) may allow the General Land Office or Texas  
29 Facilities Commission to recover from the sale proceeds any cost  
30 incurred by the agency in the sale of the property.

31 (d) Subject to the satisfaction of any security interest

1 or lien described by Section 12.128(e), proceeds from the sale  
2 of property under this section shall be deposited in the charter  
3 school liquidation fund.

4 (e) The commissioner may adopt rules as necessary to  
5 administer this section.

6 Sec. 12.1284. CLOSURE OF CHARTER SCHOOL OPERATIONS.

7 (a) After extinguishing all payable obligations owed by an  
8 open-enrollment charter school that ceases to operate, including  
9 a debt described by Section 12.128(e), a former charter holder  
10 shall:

11 (1) remit to the agency:

12 (A) any remaining funds described by Section  
13 12.106(d); and

14 (B) any state reimbursement amounts from the  
15 sale of property described by Section 12.128; or

16 (2) transfer the remaining funds to another charter  
17 holder under Section 12.106(e).

18 (b) The agency shall deposit any funds received under  
19 Subsection (a)(1) in the charter school liquidation fund.

20 (c) The commissioner may adopt rules necessary to  
21 administer this section.

22 SECTION \_\_. Subchapter D, Chapter 12, Education Code, is  
23 amended by adding Section 12.141 to read as follows:

24 Sec. 12.141. RECLAIMED FUNDS. (a) The agency shall  
25 deposit funds received under Sections 12.106, 12.128, 12.1281,  
26 12.1283, and 12.1284 into the charter school liquidation fund  
27 and may use the funds to:

28 (1) pay expenses relating to managing and closing an  
29 open-enrollment charter school that ceases to operate,  
30 including:

31 (A) maintenance of the school's student and

1 other records; and

2 (B) the agency's personnel costs associated with  
3 managing and closing the school;

4 (2) dispose of property described by Section 12.128;  
5 and

6 (3) maintain property described by Section 12.128,  
7 including expenses for insurance, utilities, maintenance, and  
8 repairs.

9 (b) The agency may not use funds under this section until  
10 the commissioner determines if the open-enrollment charter  
11 school that ceases to operate received an overallocation of  
12 funds under Section 12.106 that must be recovered for the  
13 foundation school program.

14 (c) The agency shall annually review the amount of funds  
15 in the charter school liquidation fund and transfer any funds  
16 exceeding \$2 million:

17 (1) for use in funding a high-quality educational  
18 grant program established by the commissioner; or

19 (2) to the comptroller to deposit in the charter  
20 district bond guarantee reserve fund under Section 45.0571.

21 (d) The agency may delay a transfer of funds under  
22 Subsection (c) if the excess is less than \$100,000. Funds set  
23 aside for an overallocation of funds from the foundation school  
24 program are not included in determining whether the amount of  
25 funds exceeds \$2 million.

26 (e) The commissioner may adopt rules necessary to  
27 implement this section.

28 SECTION \_\_. Subchapter Z, Chapter 29, Education Code, is  
29 amended by adding Section 29.924 to read as follows:

30 Sec. 29.924. HIGH-QUALITY EDUCATIONAL PROGRAM GRANTS.

31 (a) The commissioner shall establish a competitive grant

1 program to assist school districts and open-enrollment charter  
2 schools in implementing high-quality educational programs.

3 (b) The commissioner may adopt rules on the use of grant  
4 funds under this section, including rules determining  
5 eligibility, award amount, and any restrictions. The  
6 commissioner may authorize a grant recipient or a tax-exempt  
7 organization contracting with the grant recipient to use grant  
8 funds for the remodeling of current facilities and performance-  
9 based incentives.

10 (c) Grant funds awarded under this section may be used by  
11 a grant recipient only to implement a high-quality educational  
12 program or to enhance a current educational program in order for  
13 the program to operate as a high-quality educational program.

14 (d) In selecting grant recipients under this section, the  
15 commissioner must consider the availability of existing  
16 resources, including funds and equipment, to students in the  
17 school district or open-enrollment charter school.

18 (e) The commissioner may make grants under this section  
19 using funds allocated for that purpose under Section  
20 12.141(c)(1) and gifts, grants, and donations accepted by the  
21 commissioner. A decision of the commissioner concerning the  
22 amount of funds available for a grant is final and may not be  
23 appealed.

24 SECTION \_\_. Section 39.1121, Education Code, is amended by  
25 adding Subsection (c-1) to read as follows:

26 (c-1) A board of managers appointed for the final closure  
27 of a former open-enrollment charter school under Subsection (c)  
28 has the authority to:

29 (1) access and manage any former charter holder's  
30 bank account that contains funds received under Section 12.106;  
31 and

1           (2) subject to approval by a creditor with a security  
2 interest in or lien on property described by Section 12.128 and  
3 in accordance with Sections 12.1281 and 12.1282, sell or  
4 transfer to another charter holder or school district any  
5 property titled to the former charter holder that is identified  
6 in the former open-enrollment charter school's annual financial  
7 report filed under Section 44.008 as being acquired, wholly or  
8 partly, with funds received under Section 12.106.

9           SECTION \_\_. Section 39.1122(c), Education Code, is amended  
10 to read as follows:

11           (c) The agency [~~commissioner~~] shall use funds received by  
12 or due to the former charter holder under Section 12.106 or  
13 funds returned to the state from liquidation of [~~state~~] property  
14 described by Section 12.128 and held by a former charter holder  
15 for compensation of a member of a board of managers for an open-  
16 enrollment charter school or a campus of an open-enrollment  
17 charter school or a superintendent.

18           SECTION \_\_. Section 43.001(a), Education Code, is amended  
19 to read as follows:

20           (a) Except as provided by Subsection (b), the permanent  
21 school fund, which is a perpetual endowment for the public  
22 schools of this state, consists of:

23                 (1) all land appropriated for the public schools by  
24 the constitution and laws of this state;

25                 (2) all of the unappropriated public domain remaining  
26 in this state, including all land recovered by the state by suit  
27 or otherwise except pine forest land as defined by Section  
28 88.111 and property described by Section 12.128;

29                 (3) all proceeds from the authorized sale of  
30 permanent school fund land;

31                 (4) all proceeds from the lawful sale of any other

1 properties belonging to the permanent school fund;

2 (5) all investments authorized by Section 43.003 of  
3 properties belonging to the permanent school fund; and

4 (6) all income from the mineral development of  
5 permanent school fund land, including income from mineral  
6 development of riverbeds and other submerged land.

7 SECTION \_\_. Section 44.008, Education Code, is amended by  
8 adding Subsections (f), (g), and (h) to read as follows:

9 (f) An open-enrollment charter school shall provide an  
10 accounting of each parcel of the school's real property,  
11 including identifying the amount of local, state, and federal  
12 funds used to purchase or improve each parcel of property.

13 (g) An open-enrollment charter school for which the  
14 charter has expired, been revoked, or been surrendered or an  
15 open-enrollment charter school that otherwise ceases to operate  
16 shall submit a final annual financial report to the agency. The  
17 report must verify that all state property held by the charter  
18 holder has been returned or disposed of in accordance with  
19 Section 12.128.

20 (h) The commissioner may adopt rules necessary to  
21 implement this section, including rules defining local funds.

22 SECTION \_\_. A transfer of property from an open-enrollment  
23 charter school that ceases to operate to another open-enrollment  
24 charter school that occurred before the effective date of this  
25 Act is ratified if both open-enrollment charter schools  
26 classified the property as purchased with state funds on each  
27 school's annual financial report under Section 44.008, Education  
28 Code.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 24, 2017**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1553** by Lozano (Relating to permitting a school district that has failed to satisfy performance standards to partner with an institution of higher education to improve district performance.), **As Passed 2nd House**

**Assuming the grant program is fully funded with donations, there would be no significant impact to the state.**

As noted below, the biennial cost of the program is estimated to be \$12.3 million; to the extent insufficient donations are collected, these costs could be borne by General Revenue or other state funds. As the scope of the grant program in the legislation is broad, costs could be higher or lower depending on actual program implementation.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$0

## All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>All Funds</i>	Change in Number of State Employees from FY 2017
2018	(\$5,143,611)	1.0
2019	(\$7,135,611)	1.0
2020	(\$5,135,611)	1.0
2021	(\$7,135,611)	1.0
2022	(\$5,135,611)	1.0

## Fiscal Analysis

The bill would amend the Education Code to allow the Commissioner to accept a gift, grant, donation, or other contribution on behalf of a public school system and agency, and use the contribution as determined by the Commissioner unless otherwise directed by the donor. This section would apply to a wide variety of programs administered by the agency.

The bill would allow the Commissioner to take certain actions related to grant compliance, including adopt rules, require grant recipients to provide certain information, and direct the Texas Education Agency (TEA) to make a site visit. The bill would allow the Commissioner to take certain actions if it is determined a grant recipient is not in compliance with grant requirements and would specify the Commissioner's decision regarding grant compliance to be final.

The bill would require the Commissioner to establish a competitive grant program to assist school districts and open-enrollment charter schools in implementing high-quality educational programs or enhance a current educational program in order for the program to operate as a high-quality educational program. The bill would allow the Commissioner to adopt rules related to determining eligibility, award amount, and any restrictions related to the grant; authorize a grant recipient or a tax-exempt organization contracting with the recipient to use grant funds for facility purposes and performance-based incentives; and make grants from available sources, including gifts, grants, and donations. The bill would require the Commissioner to consider the availability of existing resources, including funds and equipment, to students in the school district or open-enrollment charter school when selecting grant recipients.

This bill would establish a framework to dispose of property held by a charter school that has ceased to operate. This includes allowing a charter that has purchased real property with local funds to retain a proportional ownership share, procedures for the state to sell or transfer real property, and the ability for a former charter to retain the property by buying out the state interest.

The bill would restrict the use of charter funds from being pledged or used to secure loans or bonds for another organization, including a non-charter operation or out-of-state operation conducted by the charter holder or a related party. The bill also allows an audit of a charter school to examine real property transactions between the charter holder and a related party and allows the commissioner to take action to protect the school's interest.

The bill would specify the allowable uses of the charter liquidation fund, including agency personnel costs associated with managing and closing charter schools. The bill's provisions direct the Commissioner of Education to transfer excess funds in the charter liquidation fund to a high quality education grant or to supplement the bond guarantee reserve fund.

The bill would allow the Commissioner to authorize a district that has not satisfied the accreditation criteria under Section 39.052, the academic performance standards under Section



39.053 or 39.054, or any financial accountability standard as determined by commissioner rule, or if considered appropriate by the Commissioner on the basis of a special accreditation investigation under Section 39.057, to enter into a memorandum of understanding (MOU) with an institution of higher education (IHE) so that the IHE can assist in improving the district's performance.

The bill would take effect September 1, 2017.

### **Methodology**

This analysis estimates the costs of implementing the provisions of the bill assuming that either the Legislature appropriates money specifically for that purpose or that the agency identifies available funds. Based on implementation plans provided by The Texas Education Agency, this estimate assumes establishing a competitive grant program and awarding grants to assist school districts and open-enrollment charter schools in implementing high-quality educational programs would result in a cost of approximately \$5.1 million in fiscal year 2018 and \$7.1 million in fiscal year 2019, with similar costs in the following biennium. This analysis assumes the competitive grant would be funded through General Revenue Funds or other available funds as specified in the legislation; however, General Revenue costs would be reduced to the extent that gifts, grants, donations, or other contributions were made available to implement the grant program. The agency anticipates that the grant program would be funded by philanthropic donations.

The bill would allow the Commissioner to adopt rules on the use of grant funds, including rules determining eligibility, award amount, and any restrictions. For purposes of grant implementation, the Texas Education Agency (TEA) estimates the grants would provide financial support and technical assistance for school districts and open-enrollment charter schools to identify schools that serve low income students well and replicate those models. TEA intends to award two-year grants to 10 eligible entities every other year with grants structured to allow for 12 months of planning and 12 months of implementation support. According to TEA, eligible entities would receive \$500,000 in year one and \$700,000 in year two for a total grant award of \$1.2 million per grantee over a two-year period. Based on the information provided by TEA, grant costs would total \$5.0 million (\$500,000/grantee in year one x 10 grantees) in fiscal year 2018 and \$7.0 million in fiscal year 2019 (\$700,000/grantee in year two x 10 grantees). Following the 2018-19 biennium, TEA anticipates awarding grants in a similar way so that two-year grants are awarded every biennium.

To the extent the agency implements the program in a different manner, costs could be significantly higher or lower.

This analysis estimates one FTE would be required to determine eligibility for the grant, provide planning and ongoing technical assistance to grantees, and to make necessary site visits during the two-year grant award. The estimated cost of the FTE, including salary, benefits, and other operating expenses, would be \$143,611 in fiscal year 2018 and \$135,611 in subsequent years.

### **Local Government Impact**

School district and open-enrollment charter school participation in the grant program is voluntary. TEA estimates that if districts and charters chose to participate they would likely incur cost associated with developing a school replication plan and application. TEA estimates the development of such a plan and application would not exceed \$25,000 per application and that any additional costs of the actual replication would be covered if the districts application were to be win a grant award.

In addition, districts may incur costs associated with entering into a MOU with an IHE. However, the fiscal impact to the district would depend on any commitment of funds expressed in the memorandum of understanding between the district and the IHE.

**Source Agencies:** 701 Texas Education Agency, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 758 Texas State University System, 768 Texas Tech University System Administration, 781 Higher Education Coordinating Board, 783 University of Houston System Administration

**LBB Staff:** UP, AW, THo, AM

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 12, 2017**

**TO:** Honorable Larry Taylor, Chair, Senate Committee on Education

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1553** by Lozano (Relating to permitting a school district that has failed to satisfy performance standards to partner with an institution of higher education to improve district performance.), **As Engrossed**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
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The bill would amend the Education Code to allow the Commissioner to authorize a district that has not satisfied the accreditation criteria under Section 39.052, the academic performance standards under Section 39.053 or 39.054, or any financial accountability standard as determined by commissioner rule, or if considered appropriate by the Commissioner on the basis of a special accreditation investigation under Section 39.057, to enter into a memorandum of understanding (MOU) with an institution of higher education (IHE) so that the IHE can assist in improving the district's performance.

The Texas Education Agency and IHEs anticipate any costs associated with the provisions of the bill could be absorbed with existing resources.

**Local Government Impact**

Districts may incur costs associated with entering into a MOU with an IHE. However, the fiscal impact to the district would depend on any commitment of funds expressed in the memorandum of understanding between the district and the IHE.

**Source Agencies:** 701 Texas Education Agency, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 758 Texas State University System, 768 Texas Tech University System Administration, 781 Higher Education Coordinating Board, 783 University of Houston System Administration

**LBB Staff:** UP, THo, AM, AW

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**April 30, 2017**

**TO:** Honorable Dan Huberty, Chair, House Committee on Public Education

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1553** by Lozano (Relating to permitting a school district that has failed to satisfy performance standards to partner with an institution of higher education to improve district performance.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Education Code to allow the Commissioner to authorize a district that has not satisfied the accreditation criteria under Section 39.052, the academic performance standards under Section 39.053 or 39.054, or any financial accountability standard as determined by commissioner rule, or if considered appropriate by the Commissioner on the basis of a special accreditation investigation under Section 39.057, to enter into a memorandum of understanding (MOU) with an institution of higher education (IHE) so that the IHE can assist in improving the district's performance.

The Texas Education Agency and IHEs anticipate any costs associated with the provisions of the bill could be absorbed with existing resources.

**Local Government Impact**

Districts may incur costs associated with entering into a MOU with an IHE. However, the fiscal impact to the district would depend on any commitment of funds expressed in the memorandum of understanding between the district and the IHE.

**Source Agencies:** 701 Texas Education Agency, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 758 Texas State University System, 768 Texas Tech University System Administration, 781 Higher Education Coordinating Board, 783 University of Houston System Administration

**LBB Staff:** UP, THo, AM, AW