

The State Board of Education (SBOE) proposes the repeal of §109.25 and amendments to §109.51 and §109.52, concerning budgeting, accounting, and auditing. The proposed repeal would remove §109.25, whose statutory authority, Texas Education Code (TEC), §48.104(j-1), (k), (l), (m), (n), and (o), was removed by House Bill (HB) 2, 89th Texas Legislature, Regular Session, 2025. The proposed amendments would align language in Subchapter D with TEC, §45.208, which no longer requires depository contracts to be submitted to the Texas Education Agency (TEA).

**BACKGROUND INFORMATION AND JUSTIFICATION:** Section 109.25 requires each school district and charter school to report financial information relating to the expenditure of the state compensatory education allotment under the Foundation School Program to TEA. HB 2, 89th Texas Legislature, Regular Session, 2025, repealed the SBOE's authority to direct how the state compensatory education allotment funds are spent and how the funds are reported to TEA. Therefore, the proposed repeal of §109.25 is necessary to implement HB 2.

Section 109.52 establishes the requirement that each school district select at least one bank as a depository and enter into a depository contract with the bank, providing the completed contract to TEA. Section 109.52 also establishes the requirement that a district provide a completed surety bond form to TEA if the depository bank uses a surety bond to secure district deposits. The section includes the depository contract form and surety bond form with the content prescribed by the SBOE. Senate Bill 1376, 86th Texas Legislature, 2019, repealed the requirement for districts to submit certain depository information to TEA. Therefore, §109.52 would be amended to remove filing requirements.

Section 109.51 would be amended to make non-substantive changes to align with language in §109.52.

The SBOE approved the proposed revisions for first reading and filing authorization at its January 30, 2026 meeting.

**FISCAL IMPACT:** Amy Copeland, associate commissioner for school finance, has determined that there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

**LOCAL EMPLOYMENT IMPACT:** The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

**SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT:** The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis specified in Texas Government Code, §2006.002, is required.

**COST INCREASE TO REGULATED PERSONS:** The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

**TAKINGS IMPACT ASSESSMENT:** The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

**GOVERNMENT GROWTH IMPACT:** TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would repeal an existing regulation to remove a rule whose statutory authority has been removed. The proposed rulemaking would also limit an existing regulation to remove the requirement that school districts file certain documents with TEA.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** Ms. Copeland has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to remove

an outdated rule and clarify that the requirements and eligibility criteria for school districts and charter schools regarding the execution and management of depository contracts. This clarification promotes transparency, ensures compliance with statutory provisions, and supports sound financial practices in safeguarding public funds. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data or reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The SBOE requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins February 27, 2026, and ends at 5:00 p.m. on March 30, 2026. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2026 in accordance with the SBOE board operating policies and procedures. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the Texas Register on February 27, 2026.

STATUTORY AUTHORITY. The repeal is proposed under House Bill 2, Section 7.24, 89th Texas Legislature, Regular Session, 2025, which amended Texas Education Code, §48.104, to repeal the authority of the State Board of Education to direct how the state compensatory education allotments funds are spent and how the expenditures are reported to the Texas Education Agency.

CROSS REFERENCE TO STATUTE. The repeal implements House Bill 2, Section 7.24, 89th Texas Legislature, Regular Session, 2025.

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**§109.25. State Compensatory Education Program Reporting and Auditing System.**

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STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code, §45.208, which requires that a school district use the depository contract prescribed by the State Board of Education and that the depository bank secure the highest daily amount of cash in the bank using a bond or other surety agreements.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §45.208.

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#### **§109.51. Uniform Depository Bank Bid or Proposal Form.**

- (a) At least 60 days before the end of the current depository contract, each school district must decide to use either competitive bidding or a request for proposals to choose a new depository.
- (b) At least 30 days before the end of the current depository contract, the district must mail the uniform blank form for the selected process to each bank located in the district. The district must use either the uniform bid form specified in subsection (c) of this section or the uniform proposal form specified in subsection (d) of this section. The district may add other terms to the uniform bid or proposal form if the added terms do not unfairly restrict competition between banks as stated in [the] Texas Education Code, §45.206(b). The district must maintain [keep] the selected bid or proposal form [in the district] and make it available to the Texas Education Agency upon request.
- (c) This subsection provides the uniform bid blank form, entitled "Bid Form for Depository Services."  
Figure: 19 TAC §109.51(c) (No change.)
- (d) This subsection provides the uniform proposal blank form, entitled "Proposal Form for Depository Services."  
Figure: 19 TAC §109.51(d) (No change.)

#### **§109.52. Uniform Depository Bank Contract and Surety Bond Forms.**

- (a) Each school district must use the uniform depository contract form as provided in subsection (b) of this section. The district must complete the form [and file it electronically with the Texas Education Agency (TEA)] as specified in [the] Texas Education Code (TEC), §45.208, and in accordance with filing instructions provided on the Texas Education Agency (TEA) [TEA] website. The district must maintain the selected bid or proposal form and make it available to TEA upon request.
- (b) This subsection provides the uniform depository contract form, entitled "Depository Contract for Funds of Independent School Districts under the Texas Education Code, Chapter 45, Subchapter G, School District Depositories."  
Figure: 19 TAC §109.52(b) (No change.)
- (c) If a district's depository elects a surety bond to secure the district's deposit amounts less any applicable Federal Deposit Insurance Corporation insurance, the depository must complete the surety bond form provided in subsection (d) of this section, attach it to the contract, and file it with the district. The district must maintain [file] a copy of the contract and the surety bond form [with the TEA] as specified in [the] TEC, §45.208, and in accordance with filing instructions provided on the TEA website. The district must maintain a copy of the contract and the surety bond form and make it available to TEA upon request.
- (d) This subsection provides the uniform surety bond form, entitled "Texas School Depository Surety Bond Form."  
Figure: 19 TAC §109.52(d) (No change.)
- (e) If [the] TEA receives a contract form and determines that it is incomplete, [the] TEA will notify the district.
- (f) A district that has no current depository contract in force and filed with [the] TEA will receive its warrants from [the] TEA by US mail.

- (g) For depository contract filing requirements for charter schools, refer to §100.1063 [~~§100.1043~~] of this title (relating to Status and Use of State Funds; Depository Contract).