

By: Schatzline

H.B. No. 3011

A BILL TO BE ENTITLED

AN ACT

relating to the academic assessment of public school students.

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

SECTION 1. Section 12.260(c), Education Code, is amended to read as follows:

(c) For a school year before the 2025-2026 school year, the agency shall adopt and administer one or more [~~the Algebra I, English II, and biology end-of-course~~] assessment instruments designated [~~instruments adopted~~] under Section 39.023(c) as the secondary exit-level assessment instrument required under this section. The level of performance considered to be satisfactory on those assessment instruments for purposes of this subsection is the level of performance considered to be satisfactory under Section 39.0241(a) [~~adopted under 19 T.A.C. Section 101.4003(a), as that rule existed on January 1, 2021~~]. This subsection expires September 1, 2025.

SECTION 2. Section 18.006(b), Education Code, is amended to read as follows:

(b) In addition to other factors determined to be appropriate by the commissioner, the accountability system must include consideration of:

(1) student performance on the [~~end-of-course~~] assessment instruments administered under [~~required by~~] Section 39.023(c); and

1 (2) dropout rates, including dropout rates and diploma
2 program completion rates for the grade levels served by the diploma
3 program.

4 SECTION 3. Section 25.005(b), Education Code, is amended to
5 read as follows:

6 (b) A reciprocity agreement must:

7 (1) address procedures for:

8 (A) transferring student records;

9 (B) awarding credit for completed course work;

10 and

11 (C) permitting a student to satisfy the
12 requirements of Section 39.025 through successful performance on
13 comparable [~~end-of-course or other exit-level~~] assessment
14 instruments administered in another state; and

15 (2) include appropriate criteria developed by the
16 agency.

17 SECTION 4. Section 28.014(a), Education Code, is amended to
18 read as follows:

19 (a) Each school district shall partner with at least one
20 institution of higher education to develop and provide courses in
21 college preparatory mathematics and English language arts. The
22 courses must be designed:

23 (1) for students at the 12th grade level whose
24 performance on:

25 (A) an [~~end-of-course~~] assessment instrument
26 administered [~~required~~] under Section 39.023(c) does not meet
27 college readiness standards; or

1 (B) coursework, a college entrance examination,
2 or an assessment instrument designated under Section 51.334
3 indicates that the student is not ready to perform entry-level
4 college coursework; and

5 (2) to prepare students for success in entry-level
6 college courses.

7 SECTION 5. Section 28.0211(o), Education Code, is amended
8 to read as follows:

9 (o) This section does not require the administration of
10 a fifth [~~or eighth~~] grade assessment instrument in a subject under
11 Section 39.023(a) to a student enrolled in the fifth [~~or eighth~~]
12 grade[~~, as applicable,~~] if the student[~~+~~

13 [~~(1)~~] is enrolled in a course in the subject intended
14 for students above the student's grade level and will be
15 administered an assessment instrument adopted or developed under
16 Section 39.023(a) that aligns with the curriculum for the course in
17 which the student is enrolled[~~, or~~

18 [~~(2) is enrolled in a course in the subject for which~~
19 ~~the student will receive high school academic credit and will be~~
20 ~~administered an end-of-course assessment instrument adopted under~~
21 ~~Section 39.023(c) for the course].~~

22 SECTION 6. Section 28.023(c), Education Code, is amended to
23 read as follows:

24 (c) A school district shall give a student in grade level
25 six or above credit for a subject on the basis of an examination for
26 credit in the subject approved by the board of trustees under
27 Subsection (a) if the student scores in the 80th percentile or above

1 on the examination or if the student achieves a score as provided by
2 Subsection (c-1). If a student is given credit in a subject on the
3 basis of an examination, the district shall enter the examination
4 score on the student's transcript [~~and the student is not required~~
5 ~~to take an end-of-course assessment instrument adopted under~~
6 ~~Section 39.023(c) for that subject~~].

7 SECTION 7. Sections 28.025(b-4) and (c-8), Education Code,
8 are amended to read as follows:

9 (b-4) A school district may offer the curriculum described
10 in Subsections (b-1)(1) through (4) in an applied manner. Courses
11 delivered in an applied manner must cover the essential knowledge
12 and skills[~~, and the student shall be administered the applicable~~
13 ~~end-of-course assessment instrument as provided by Sections~~
14 ~~39.023(c) and 39.025~~].

15 (c-8) For purposes of Subsection (c-7), the admission,
16 review, and dismissal committee of a student in a special education
17 program under Subchapter A, Chapter 29, shall determine whether the
18 student is required to achieve satisfactory performance on an
19 [~~end-of-course~~] assessment instrument administered under Section
20 39.023(c) to earn an endorsement on the student's transcript.

21 SECTION 8. Section 28.0255, Education Code, is amended by
22 amending Subsections (g) and (h) and adding Subsection (g-1) to
23 read as follows:

24 (g) A student entering the ninth grade for the first time
25 beginning with the 2023-2024 school year is entitled to a high
26 school diploma if the student:

27 (1) successfully complies with the curriculum

1 requirements specified under Subsection (e); and

2 (2) performs satisfactorily, as determined by the
3 commissioner under Subsection (h), on each ~~[end-of-course]~~
4 assessment instrument selected ~~[instruments listed]~~ under Section
5 39.023(c) by the school district ~~[for courses]~~ in which the student
6 is ~~[was]~~ enrolled.

7 (g-1) A student other than a student described by Subsection
8 (g) is entitled to a high school diploma if the student:

9 (1) successfully complies with the curriculum
10 requirements specified under Subsection (e); and

11 (2) performs satisfactorily, as determined by the
12 commissioner under Subsection (h), on:

13 (A) each assessment instrument selected under
14 Section 39.023(c) by the school district in which the student is
15 enrolled; or

16 (B) assessment instruments listed under Section
17 39.023(c), as that section existed before amendment by __.B. ____,
18 Acts of the 88th Legislature, Regular Session, 2023, for courses in
19 which the student was enrolled.

20 (h) For purposes of Subsections ~~[Subsection]~~ (g)(2) and
21 (g-1)(2), the commissioner shall determine the level of
22 satisfactory performance on applicable ~~[end-of-course]~~ assessment
23 instruments administered to a student.

24 SECTION 9. Section 28.0258, Education Code, is amended by
25 amending Subsections (a), (b), (f), (h), (j), and (k) and adding
26 Subsections (m) and (n) to read as follows:

27 (a) This section applies only to an 11th or 12th grade

1 student who has failed to comply with the [~~end-of-course~~]
2 assessment instrument performance requirements under Section
3 39.025 for not more than two subjects identified under Section
4 39.023(c) [~~courses~~].

5 (b) For each student to whom this section applies, the
6 school district that the student attends shall establish an
7 individual graduation committee at the end of or after the
8 student's 11th grade year to determine whether the student may
9 qualify to graduate as provided by this section. A student may not
10 qualify to graduate under this section before the student's 12th
11 grade year. The committee shall be composed of:

12 (1) the principal or principal's designee;

13 (2) for each subject identified under Section
14 39.023(c) for [~~end-of-course assessment instrument on~~] which the
15 student failed to perform satisfactorily on the appropriate
16 corresponding required assessment instrument, a [~~the~~] teacher of
17 the student in that subject, designated by the principal [~~course~~];

18 (3) the department chair or lead teacher supervising
19 the teacher described by Subdivision (2); and

20 (4) as applicable:

21 (A) the student's parent or person standing in
22 parental relation to the student;

23 (B) a designated advocate described by
24 Subsection (c) if the person described by Paragraph (A) is unable to
25 serve; or

26 (C) the student, at the student's option, if the
27 student is at least 18 years of age or is an emancipated minor.

1 (f) Notwithstanding any other law, a student's individual
2 graduation committee established under this section shall
3 recommend additional requirements by which the student may qualify
4 to graduate, including:

5 (1) additional remediation; and

6 (2) for each [~~end-of-course~~] assessment instrument
7 required under Section 39.023(c) on which the student failed to
8 perform satisfactorily:

9 (A) the completion of a project related to the
10 subject area [~~of the course~~] that demonstrates proficiency in the
11 subject area; or

12 (B) the preparation of a portfolio of work
13 samples in the subject area [~~of the course~~], including work samples
14 [~~from the course~~] that demonstrate proficiency in the subject area.

15 (h) In determining whether a student for whom an individual
16 graduation committee is established is qualified to graduate, the
17 committee shall consider:

18 (1) the recommendation of the student's teacher in
19 each course of the subject for which the student failed to perform
20 satisfactorily on an [~~end-of-course~~] assessment instrument;

21 (2) the student's grade in each course of the subject
22 for which the student failed to perform satisfactorily on an
23 [~~end-of-course~~] assessment instrument;

24 (3) the student's score on each [~~end-of-course~~]
25 assessment instrument required under Section 39.023(c) on which the
26 student failed to perform satisfactorily;

27 (4) the student's performance on any additional

1 requirements recommended by the committee under Subsection (f);

2 (5) the number of hours of remediation that the
3 student has attended, including[+]

4 [~~(A) attendance in a college preparatory course~~
5 ~~required under Section 39.025(b-2), if applicable; or~~

6 [~~(B)~~] attendance in and successful completion of
7 a transitional college course in reading or mathematics;

8 (6) the student's school attendance rate;

9 (7) the student's satisfaction of any of the Texas
10 Success Initiative (TSI) college readiness benchmarks prescribed
11 by the Texas Higher Education Coordinating Board;

12 (8) the student's successful completion of a dual
13 credit course in English, mathematics, science, or social studies;

14 (9) the student's successful completion of a high
15 school pre-advanced placement, advanced placement, or
16 international baccalaureate program course in English,
17 mathematics, science, or social studies;

18 (10) the student's rating of advanced high on the most
19 recent high school administration of the Texas English Language
20 Proficiency Assessment System;

21 (11) the student's score of 50 or greater on a
22 College-Level Examination Program examination;

23 (12) the student's score on:

24 (A) the ACT or[7] the SAT, if not otherwise
25 considered under Subdivision (3); or

26 (B) the Armed Services Vocational Aptitude
27 Battery test;

1 (13) the student's completion of a sequence of courses
2 under a career and technical education program required to attain
3 an industry-recognized credential or certificate;

4 (14) the student's overall preparedness for
5 postsecondary success; and

6 (15) any other academic information designated for
7 consideration by the board of trustees of the school district.

8 (j) Notwithstanding any action taken by an individual
9 graduation committee under this section, a school district shall
10 administer an ~~[end-of-course]~~ assessment instrument required under
11 Section 39.023(c) to any student who fails to perform
12 satisfactorily on an ~~[end-of-course]~~ assessment instrument
13 required under Section 39.023(c) as provided by Section 39.025(b).
14 For purposes of Section 39.053(c)(1), an assessment instrument
15 administered as provided by this subsection is considered an
16 assessment instrument required for graduation retaken by a student.

17 (k) The commissioner shall adopt rules as necessary to
18 administer ~~[implement]~~ this section ~~[not later than the 2015-2016~~
19 ~~school year]~~.

20 (m) For a student subject to Section 39.025(f-3)(1):

21 (1) for purposes of Subsection (a), this section
22 applies only to an 11th or 12th grade student who has failed to
23 comply with the end-of-course assessment instrument performance
24 requirements under Section 39.025, as that section existed before
25 amendment by __.B. ____, Acts of the 88th Legislature, Regular
26 Session, 2023, for not more than two courses listed in Section
27 39.023(c), as that section existed before amendment by __.B. ____,

1 Acts of the 88th Legislature, Regular Session, 2023;

2 (2) for purposes of the composition of an individual
3 graduation committee under Subsection (b)(2), the committee shall
4 include the teacher of the course for each end-of-course assessment
5 instrument described by Subdivision (1) for which the student
6 failed to perform satisfactorily;

7 (3) for purposes of Subsection (h)(1), an individual
8 graduation committee shall consider the recommendation of the
9 teacher described by Subdivision (2); and

10 (4) for purposes of Subsection (h)(2), an individual
11 graduation committee shall consider the student's grade in each
12 course described by Subdivision (2).

13 (n) Subsection (m) and this subsection expire September 1,
14 2027.

15 SECTION 10. Sections 29.081(b) and (b-1), Education Code,
16 are amended to read as follows:

17 (b) Each district shall provide accelerated instruction to
18 a student enrolled in the district who has taken an [~~end-of-course~~]
19 assessment instrument administered under Section 39.023(c) and has
20 not performed satisfactorily on the assessment instrument or who is
21 at risk of dropping out of school.

22 (b-1) Each school district shall offer before the next
23 scheduled administration of the assessment instrument, without
24 cost to the student, additional accelerated instruction to each
25 student in any subject in which the student failed to perform
26 satisfactorily on an [~~end-of-course~~] assessment instrument
27 required for graduation.

1 SECTION 11. Section 29.087(f), Education Code, is amended
2 to read as follows:

3 (f) A student participating in a program authorized by this
4 section, other than a student ordered to participate under
5 Subsection (d)(1), must have taken any ~~[the]~~ appropriate
6 ~~[end-of-course]~~ assessment instrument ~~[instruments]~~ specified by
7 Section 39.023(c) that is administered before the student enters
8 ~~[entering]~~ the program and must take any ~~[each]~~ appropriate
9 ~~[end-of-course]~~ assessment instrument that is administered during
10 the period in which the student is enrolled in the program. Except
11 for a student ordered to participate under Subsection (d)(1), a
12 student participating in the program may not take the high school
13 equivalency examination unless the student has taken the assessment
14 instruments required by this subsection.

15 SECTION 12. Section 29.402(b), Education Code, is amended
16 to read as follows:

17 (b) A person who is under 26 years of age is eligible to
18 enroll in a dropout recovery program under this subchapter if the
19 person:

20 (1) must complete not more than three course credits
21 to complete the curriculum requirements for the foundation high
22 school program for high school graduation; or

23 (2) has failed to perform satisfactorily on, as
24 applicable:

25 (A) an ~~[end-of-course]~~ assessment instrument
26 administered under Section 39.023(c);

27 (B) an assessment instrument administered under

1 Section 39.023(c) as that section existed before amendment by ___B.
2 _____, Acts of the 88th Legislature, Regular Session, 2023; or

3 (C) an assessment instrument administered under
4 Section 39.023(c) as that section existed before amendment by
5 Chapter 1312 (S.B. 1031), Acts of the 80th Legislature, Regular
6 Session, 2007.

7 SECTION 13. Section 29.9091(b), Education Code, is amended
8 to read as follows:

9 (b) A school district or open-enrollment charter school
10 that operates a full-time local remote learning program must:

11 (1) include in the program:

12 (A) at least one grade level in which an
13 assessment instrument is required to be administered under Section
14 39.023(a), including each subject for which an assessment
15 instrument is required; or

16 (B) a complete high school program, including
17 each subject [~~course~~] for which an [~~end-of-course~~] assessment
18 instrument is required to be administered under Section 39.023(c);
19 and

20 (2) offer the option for a student's parent or person
21 standing in parental relation to select in-person instruction for
22 the student.

23 SECTION 14. Section 39.023, Education Code, is amended by
24 amending Subsections (a), (a-2), (b-1), (c), (c-3), (c-5), (c-8),
25 (e), (g), (h), (i), and (p) and adding Subsections (b-2), (b-3),
26 (h-1), and (q) to read as follows:

27 (a) The agency shall adopt or develop appropriate

1 criterion-referenced assessment instruments designed to assess
2 essential knowledge and skills in reading, mathematics, [~~social~~
3 ~~studies,~~] and science. Except as provided by Subsection (a-2), all
4 students, other than students assessed under Subsection (b) or (1)
5 or exempted under Section 39.027, shall be assessed in:

6 (1) mathematics, annually in grades three through
7 eight;

8 (2) reading, annually in grades three through eight;
9 and

10 (3) [~~social studies, in grade eight,~~
11 [~~(4)~~] science, in grades five and eight [~~, and~~
12 [~~(5) any other subject and grade required by federal~~
13 ~~law~~].

14 (a-2) Except as required by federal law, a student is not
15 required to be assessed in a subject otherwise assessed at the
16 student's grade level under Subsection (a) if the student [~~+~~

17 [~~(1)~~] is enrolled in a course in the subject intended
18 for students above the student's grade level and will be
19 administered an assessment instrument adopted or developed under
20 Subsection (a) that aligns with the curriculum for the course in
21 which the student is enrolled [~~, or~~

22 [~~(2) is enrolled in a course in the subject for which~~
23 ~~the student will receive high school academic credit and will be~~
24 ~~administered an end-of-course assessment instrument adopted under~~
25 ~~Subsection (c) for the course~~].

26 (b-1) The agency, in conjunction with appropriate
27 interested persons, shall redevelop assessment instruments adopted

1 or developed under Subsection (b) for administration to
2 significantly cognitively disabled students in a manner consistent
3 with federal law. An assessment instrument under this subsection
4 may not require a teacher to prepare tasks or materials for a
5 student who will be administered such an assessment instrument. [~~A
6 classroom portfolio method used to assess writing performance may
7 require a teacher to prepare tasks and materials.~~]

8 (b-2) Notwithstanding Subsection (b), (b-1), or any other
9 law, and to the extent consistent with federal law, the parent of or
10 person standing in parental relation to a student with significant
11 cognitive disabilities may request that the student be exempted
12 from the administration of an alternative assessment instrument
13 adopted or developed under Subsection (b) or (b-1). If a parent or
14 person standing in parental relation makes a request for exemption
15 under this subsection, the student's admission, review, and
16 dismissal committee, in consultation with the parent or person
17 standing in parental relation, shall determine if the student
18 should be exempted from administration of the alternative
19 assessment instrument. If the student is exempted from
20 administration of the alternative assessment instrument under this
21 subsection, the student must be assessed in the applicable subject
22 using the alternative assessment method developed under Subsection
23 (b-3).

24 (b-3) The commissioner, in consultation with stakeholders,
25 including parents of and persons standing in parental relation to
26 students with significant cognitive disabilities, shall develop
27 for each applicable subject an alternative assessment method for

1 the assessment of students who receive an exemption from the
2 administration of an alternative assessment instrument under
3 Subsection (b-2). The criteria for the assessment method must
4 include progress on the goals identified in the student's
5 individualized education plan. The commissioner shall adopt rules
6 necessary to implement this subsection.

7 (c) The agency shall also provide for ~~[adopt end-of-course]~~
8 assessment instruments for each federally required secondary-level
9 subject, including English language arts, mathematics, and
10 science. The commissioner shall identify a procedure for a school
11 district to select the SAT, the ACT, or any other nationally
12 recognized, norm-referenced secondary-level assessment instrument
13 designated by the commissioner for the assessment of students under
14 this subsection. Each school district shall select one or more
15 assessment instruments for purposes of this subsection. A school
16 district that selects more than one assessment instrument must
17 uniformly administer to students in the district the same
18 assessment instrument to satisfy the requirement for the same
19 subject ~~[courses in Algebra I, biology, English I, English II, and~~
20 ~~United States history. The Algebra I end-of-course assessment~~
21 ~~instrument must be administered with the aid of technology, but may~~
22 ~~include one or more parts that prohibit the use of technology]. An~~
23 ~~[The English I and English II end-of-course]~~ assessment instrument
24 designated under this subsection ~~[instruments]~~ must ~~[each]~~ assess
25 essential knowledge and skills in the appropriate subject ~~[both~~
26 ~~reading and writing and must provide a single score]. A school~~
27 district shall comply with State Board of Education rules regarding

1 administration of the assessment instruments under [~~listed in~~] this
2 subsection. If a student is in a special education program under
3 Subchapter A, Chapter 29, the student's admission, review, and
4 dismissal committee shall determine whether any allowable
5 modification is necessary in administering to the student an
6 assessment instrument required under this subsection. [~~The State
7 Board of Education shall administer the assessment instruments. An
8 end-of-course assessment instrument may be administered in
9 multiple parts over more than one day. The State Board of Education
10 shall adopt a schedule for the administration of end-of-course
11 assessment instruments that complies with the requirements of
12 Subsection (c-3).~~]

13 (c-3) In [~~Except as provided by Subsection (c-7) or as
14 otherwise provided by this subsection, in~~] adopting a schedule for
15 the administration of assessment instruments under this section,
16 the State Board of Education shall ensure that assessment
17 instruments administered under Subsection (a) or (c) are not
18 administered on the first instructional day of a week. On request
19 by a school district or open-enrollment charter school, the
20 commissioner may allow the district or school to administer an
21 assessment instrument required under Subsection (a) or (c) on the
22 first instructional day of a week if administering the assessment
23 instrument on another instructional day would result in a
24 significant administrative burden due to specific local
25 conditions.

26 (c-5) A student's performance on an [~~end-of-course~~]
27 assessment instrument administered [~~required~~] under Subsection (c)

1 must be included in the student's academic achievement record.

2 (c-8) Beginning with the 2022-2023 school year, not more
3 than 75 percent of the available points on an assessment instrument
4 developed under Subsection (a) [~~or (c)~~] may be attributable to
5 questions presented in a multiple choice format.

6 (e) Under rules adopted by the State Board of Education,
7 every third year, the agency shall release the questions and answer
8 keys to each assessment instrument administered under Subsection
9 (a), (b), [~~(c), (d)~~] or (l), excluding any assessment instrument
10 administered to a student for the purpose of retaking the
11 assessment instrument, after the last time the instrument is
12 administered for that school year. To ensure a valid bank of
13 questions for use each year, the agency is not required to release a
14 question that is being field-tested and was not used to compute the
15 student's score on the instrument. The agency shall also release,
16 under board rule, each question that is no longer being
17 field-tested and that was not used to compute a student's score.
18 [~~During the 2014-2015 and 2015-2016 school years, the agency shall~~
19 ~~release the questions and answer keys to assessment instruments as~~
20 ~~described by this subsection each year.~~]

21 (g) An [~~The State Board of Education may adopt one~~
22 ~~appropriate, nationally recognized, norm-referenced~~] assessment
23 instrument administered under Subsection (c) [~~in reading and~~
24 ~~mathematics to be administered to a selected sample of students in~~
25 ~~the spring. If adopted, a norm-referenced assessment instrument~~]
26 must be a secured test. The commissioner shall contract with a
27 vendor to administer the assessment instrument, complete the

1 scoring of the assessment instrument, and distribute within a
2 reasonable period the results to the agency and the relevant
3 results to each school district. As soon as practicable after the
4 district receives the results from the vendor under this
5 subsection, the district shall:

6 (1) distribute the relevant results to each district
7 campus; and

8 (2) provide written notice to the student and the
9 student's parent or person standing in parental relation to the
10 student that states the student's results and whether the student
11 performed satisfactorily on the assessment instrument [~~The state~~
12 ~~may pay the costs of purchasing and scoring the adopted assessment~~
13 ~~instrument and of distributing the results of the adopted~~
14 ~~instrument to the school districts. A district that administers~~
15 ~~the norm-referenced test adopted under this subsection shall report~~
16 ~~the results to the agency in a manner prescribed by the~~
17 ~~commissioner~~].

18 (h) Except as provided by Subsection (g), the [~~The~~] agency
19 shall notify school districts and campuses of the results of
20 assessment instruments administered under this section not later
21 than the 21st day after the date the assessment instrument is
22 administered.

23 (h-1) A [~~The~~] school district shall disclose to each
24 district teacher the results of assessment instruments
25 administered to students taught by the teacher in the subject for
26 the school year in which the assessment instrument is administered.

27 (i) The provisions of this section[~~, except Subsection~~

1 ~~(d),~~ are subject to modification by rules adopted under Section
2 39.022. Each assessment instrument adopted or designated under
3 those rules ~~[and each assessment instrument required under~~
4 ~~Subsection (d)]~~ must be reliable and valid and must meet any
5 applicable federal requirements for measurement of student
6 progress.

7 (p) On or before September 1 of each year, the commissioner
8 shall make the following information available on the agency's
9 Internet website for each assessment instrument administered under
10 Subsection (a) ~~[(e),~~ or (l):

11 (1) the number of questions on the assessment
12 instrument;

13 (2) the number of questions that must be answered
14 correctly to achieve satisfactory performance as determined by the
15 commissioner under Section 39.0241(a);

16 (3) the number of questions that must be answered
17 correctly to achieve satisfactory performance under the college
18 readiness performance standard as provided by Section 39.0241; and

19 (4) the corresponding scale scores.

20 (q) Notwithstanding any provision of this section or other
21 law, if changes made to the Every Student Succeeds Act (20 U.S.C.
22 Section 6301 et seq.) reduce the number or frequency of assessment
23 instruments required to be administered to students, the State
24 Board of Education shall adopt rules reducing the number or
25 frequency of assessment instruments administered to students under
26 state law, and the commissioner shall ensure that students are not
27 assessed in subject areas or in grades that are no longer required

1 to meet the minimum requirements of that Act.

2 SECTION 15. The heading to Section 39.0232, Education Code,
3 is amended to read as follows:

4 Sec. 39.0232. USE OF [~~END-OF-COURSE~~] ASSESSMENT INSTRUMENT
5 AS PLACEMENT INSTRUMENT; CERTAIN USES PROHIBITED.

6 SECTION 16. Sections 39.0232(a), (b), and (c), Education
7 Code, are amended to read as follows:

8 (a) To the extent practicable, the agency shall ensure that
9 any high school [~~end-of-course~~] assessment instrument designated
10 under Section 39.023(c) [~~developed by the agency is developed in~~
11 ~~such a manner that the assessment instrument~~] may be used to
12 determine the appropriate placement of a student in a course of the
13 same subject matter at an institution of higher education.

14 (b) A student's performance on an [~~end-of-course~~]
15 assessment instrument administered under Section 39.023(c) may not
16 be used:

17 (1) in determining the student's class ranking for any
18 purpose, including entitlement to automatic college admission
19 under Section 51.803 or 51.804; or

20 (2) as a sole criterion in the determination of
21 whether to admit the student to a general academic teaching
22 institution in this state.

23 (c) Subsection (b)(2) does not prohibit a general academic
24 teaching institution from implementing an admission policy that
25 takes into consideration a student's performance on an
26 [~~end-of-course~~] assessment instrument administered under Section
27 39.023(c) in addition to other criteria.

1 SECTION 17. Section 39.0234(a), Education Code, is amended
2 to read as follows:

3 (a) Each assessment instrument required under Section
4 39.023(a) [~~-(c)~~] or (1) must be administered electronically,
5 unless otherwise provided by commissioner rule.

6 SECTION 18. Section 39.0241, Education Code, is amended by
7 amending Subsection (a-1) and adding Subsection (a-2) to read as
8 follows:

9 (a-1) The commissioner of education, in collaboration with
10 the commissioner of higher education, shall determine the level of
11 performance necessary to indicate college readiness [~~as defined by~~
12 ~~Section 39.024(a)~~].

13 (a-2) In this section, "college readiness" means the level
14 of preparation a student must attain in English language arts and
15 mathematics courses to enroll and succeed, without remediation, in
16 an entry-level general education course for credit in that same
17 content area for a baccalaureate degree or associate degree program
18 at:

19 (1) a general academic teaching institution, as
20 defined by Section 61.003, other than a research institution, as
21 categorized under the Texas Higher Education Coordinating Board's
22 accountability system; or

23 (2) a postsecondary educational institution that
24 primarily offers associate degrees or certificates or credentials
25 other than baccalaureate or advanced degrees.

26 SECTION 19. Subchapter B, Chapter 39, Education Code, is
27 amended by adding Sections 39.02342 and 39.0239 to read as follows:

Sec. 39.02342. ALTERNATIVE ADAPTIVE ASSESSMENT

INSTRUMENTS. (a) Notwithstanding any other law, the agency shall adopt alternative adaptive assessment instruments in accordance with this section that a school district may administer in lieu of an assessment instrument adopted under Section 39.023 to satisfy state or federal law requirements concerning the administration of that assessment instrument.

(b) An alternative adaptive assessment instrument adopted under this section must:

(1) effectively measure each student's academic progress over time, without regard to the student's age, grade level, or academic performance;

(2) evidence high content or concurrent validity;

(3) have been the subject of a study used to determine the typical performance of a student conducted not more than 10 years before the adoption of the assessment instrument;

(4) use an adaptive difficulty level that is adjusted based on a student's knowledge and ability as demonstrated by the student's performance on the assessment instrument;

(5) take no longer than 90 minutes to administer; and

(6) provide immediate information and real-time reporting on student progress without requiring any additional data or syncing or uploading by a teacher or administrator.

(c) The agency may adopt an alternative adaptive assessment instrument submitted to the agency by a school district if the assessment instrument complies with the requirements of Subsection (b) and serves as an adequate measure of grade level achievement.

1 (d) A school district shall administer an alternative
2 adaptive assessment instrument adopted under this section
3 electronically.

4 (e) The agency shall:

5 (1) determine for each assessment instrument adopted
6 by the agency under this section the level of performance
7 considered to be satisfactory; and

8 (2) develop a method to compile a student's score on
9 each alternative adaptive assessment administered to the student
10 during a school year into a single summative score for each subject
11 area assessed.

12 (f) A school district shall submit in the manner and form
13 prescribed by the agency the results of an alternative adaptive
14 assessment instrument administered under this section to the agency
15 not later than three days after the administration of the
16 assessment instrument.

17 (g) The agency shall provide reimbursement to a school
18 district for all costs associated with the administration of an
19 alternative adaptive assessment instrument under this section.

20 (h) The State Board of Education shall annually review each
21 alternative adaptive assessment instrument adopted by the agency
22 under this section to ensure that the instrument is relevant,
23 valid, and reliable.

24 (i) The agency may contract for services to develop or
25 administer alternative adaptive assessment instruments that comply
26 with the requirements of Subsection (b).

27 (j) The commissioner shall adopt rules necessary to

1 implement this section, including a rule providing the number and
2 schedule of administrations of alternative adaptive assessment
3 instruments under this section and requiring the administration of
4 one alternative adaptive assessment instrument:

5 (1) at the beginning of each school year;

6 (2) at the end of each school year; and

7 (3) during each school year, between the
8 administrations under Subdivisions (1) and (2).

9 (k) Unless it conflicts with this section, a reference in
10 law to an assessment instrument adopted under Section 39.023
11 includes an alternative adaptive assessment instrument adopted by
12 the agency or administered by a school district in accordance with
13 this section.

14 Sec. 39.0239. ADMINISTRATION OF ASSESSMENT INSTRUMENTS AND
15 TEMPORARY SUSPENSION OF CERTAIN ACCOUNTABILITY MEASURES DURING
16 DISASTER. (a) If, during a school year, a statewide disaster
17 declared by the president of the United States under the Robert T.
18 Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C.
19 Section 5121 et seq.) or by the governor under Chapter 418,
20 Government Code, significantly disrupts school district
21 operations, including in-person attendance, in a majority of school
22 districts in this state, the commissioner shall apply to the United
23 States Department of Education for a waiver of the requirement
24 under the Every Student Succeeds Act (20 U.S.C. Section 6301 et
25 seq.) to administer assessment instruments during that school year.

26 (b) If the United States Department of Education fails to
27 grant a waiver requested under Subsection (a), the assessment

1 instruments shall be administered as required under Section 39.023
2 during the applicable school year, but, notwithstanding any other
3 law, the commissioner may not consider the results of the
4 assessment instruments for purposes of:

5 (1) evaluating school district or campus performance
6 under this chapter for the applicable school year, including in
7 determining:

8 (A) the performance rating to assign to each
9 district or campus under Section 39.054; or

10 (B) whether to impose any intervention or
11 sanction authorized by Chapter 39A after the applicable school year
12 on each district or campus; or

13 (2) determining a student's qualification for
14 promotion or graduation.

15 SECTION 20. Section 39.025, Education Code, is amended by
16 amending Subsections (a), (a-4), (b), and (b-1) and adding
17 Subsection (f-3) to read as follows:

18 (a) The commissioner shall adopt rules requiring a student
19 in the foundation high school program under Section 28.025 to be
20 administered each ~~[an end-of-course]~~ assessment instrument
21 selected under ~~[listed in]~~ Section 39.023(c) by the school district
22 ~~[only for a course]~~ in which the student is enrolled ~~[and for which~~
23 ~~an end-of-course assessment instrument is administered]~~. Each
24 student's performance on an assessment instrument selected under
25 Section 39.023(c) shall be evaluated to determine whether the [A]
26 student achieved ~~[is required to achieve]~~ a scale score that
27 indicates satisfactory performance, as determined by the

1 commissioner under Section 39.0241(a) [~~, on each end-of-course~~
2 ~~assessment instrument administered to the student]~~. The results of
3 the administration of an assessment instrument administered under
4 Section 39.023(c) may not be used as criteria for graduation. The
5 results may be used only for the purpose of diagnosing the academic
6 strengths and deficiencies of a student and guiding specific
7 instruction to the student. [~~For each scale score required under~~
8 ~~this subsection that is not based on a 100-point scale scoring~~
9 ~~system, the commissioner shall provide for conversion, in~~
10 ~~accordance with commissioner rule, of the scale score to an~~
11 ~~equivalent score based on a 100-point scale scoring system. A~~
12 ~~student may not receive a high school diploma until the student has~~
13 ~~performed satisfactorily on end-of-course assessment instruments~~
14 ~~in the manner provided under this subsection.] This subsection does
15 not require a student to demonstrate readiness to enroll in an
16 institution of higher education.~~

17 (a-4) The admission, review, and dismissal committee of a
18 student in a special education program under Subchapter A, Chapter
19 29, shall determine whether, to receive a high school diploma, the
20 student is required to achieve satisfactory performance on
21 [~~end-of-course~~] assessment instruments administered under Section
22 39.023(c).

23 (b) Each time an [~~end-of-course~~] assessment instrument
24 [~~adopted~~] under Section 39.023(c) is administered, a student who
25 failed to achieve a score requirement under Subsection (a) may
26 retake the assessment instrument. [~~A student is not required to~~
27 ~~retake a course as a condition of retaking an end-of-course~~

1 ~~assessment instrument.]~~

2 (b-1) A school district shall provide each student who fails
3 to perform satisfactorily as determined by the commissioner under
4 Section 39.0241(a) on an ~~[end-of-course]~~ assessment instrument
5 administered under Section 39.023(c) with accelerated instruction
6 under Section 28.0217 ~~[in the subject assessed by the assessment~~
7 ~~instrument].~~

8 (f-3) The commissioner shall by rule adopt a transition plan
9 to implement the amendments made by .B. _____, Acts of the 88th
10 Legislature, Regular Session, 2023, replacing end-of-course
11 assessment instruments with one or more assessment instruments
12 selected by a school district under Section 39.023(c). The rules
13 must provide for each assessment instrument selected by a school
14 district under Section 39.023(c) to be administered beginning with
15 students enrolled in the ninth grade for the first time during the
16 2023-2024 school year. During the period under which the
17 transition from end-of-course assessment instruments is made:

18 (1) for students entering a grade above the ninth
19 grade during the 2023-2024 school year or students repeating ninth
20 grade during the 2023-2024 school year, the commissioner shall
21 retain, administer, and use for purposes of accreditation and other
22 campus and district accountability measures under this chapter the
23 end-of-course assessment instruments required by Section
24 39.023(c), as that section existed before amendment by .B. _____,
25 Acts of the 88th Legislature, Regular Session, 2023; and

26 (2) a student subject to Subdivision (1) may not
27 receive a high school diploma unless the student has performed

1 satisfactorily on:

2 (A) each required end-of-course assessment
3 instrument administered under Section 39.023(c), as that section
4 existed before amendment by .B. _____, Acts of the 88th Legislature,
5 Regular Session, 2023; or

6 (B) each assessment instrument selected under
7 Section 39.023(c) by the district in which the student is enrolled.

8 SECTION 21. Section 39.034(d), Education Code, is amended
9 to read as follows:

10 (d) The agency shall determine the necessary annual
11 improvement required each year for a student to be prepared to
12 perform satisfactorily on, as applicable:

- 13 (1) the grade five assessment instruments;
14 (2) the grade eight assessment instruments; and
15 (3) the [~~end-of-course~~] assessment instruments
16 required under this subchapter for graduation.

17 SECTION 22. Section 39.035(a), Education Code, is amended
18 to read as follows:

19 (a) Subject to Subsection (b), the agency may conduct field
20 testing of questions for any assessment instrument administered
21 under Section 39.023(a), (b), [~~(c), (d),~~] or (l) that is separate
22 from the administration of the assessment instrument not more
23 frequently than every other school year.

24 SECTION 23. Subchapter C, Chapter 39, Education Code, is
25 amended by adding Section 39.0547 to read as follows:

26 Sec. 39.0547. EVALUATING SPECIALIZED SUPPORT CAMPUSES. (a)
27 In this section, "specialized support campus" means a school

1 district campus that:

2 (1) has a campus identification number;

3 (2) serves students enrolled in any grade level at
4 which state assessment instruments are administered; and

5 (3) has a student enrollment in which:

6 (A) at least 90 percent of students receive
7 special education services under Subchapter A, Chapter 29; and

8 (B) a significant percentage of the students
9 required to take an assessment instrument under Section 39.023:

10 (i) take an alternative assessment
11 instrument under Section 39.023(b) or (b-1); and

12 (ii) are unable to provide an authentic
13 academic response on that assessment instrument.

14 (b) The commissioner, in consultation with administrators
15 of specialized support campuses, teachers at specialized support
16 campuses, parents and guardians of students enrolled at specialized
17 support campuses, and other stakeholders, by rule shall establish
18 appropriate accountability guidelines under this chapter for use by
19 a specialized support campus in developing an alternative
20 accountability plan under Subsection (c) based on the specific
21 student population served by the campus. The commissioner shall
22 provide for public notice and comment in adopting rules under this
23 subsection.

24 (c) A specialized support campus may develop and submit to
25 the commissioner for approval an alternative accountability plan
26 tailored to the student population served by the campus, based on
27 the guidelines established under Subsection (b). The commissioner

1 may approve the alternative accountability plan only if the plan:

2 (1) follows the guidelines established under
3 Subsection (b); and

4 (2) complies with applicable federal law.

5 (d) Notwithstanding any other provision of this code, if the
6 commissioner approves an alternative accountability plan developed
7 by a specialized support campus under Subsection (c), the
8 commissioner shall determine, report, and consider the performance
9 of students enrolled at the campus using that plan.

10 (e) Not later than December 1, 2026, the commissioner shall
11 submit to the governor, the lieutenant governor, the speaker of the
12 house of representatives, and the standing legislative committees
13 with primary jurisdiction over public education a report on the
14 effectiveness of this section in evaluating specialized support
15 campuses and any recommendations for legislative or other action.

16 (f) This section expires September 1, 2027.

17 SECTION 24. Section 39.203(c), Education Code, is amended
18 to read as follows:

19 (c) In addition to the distinction designations described
20 by Subsections (a) and (b), a campus that satisfies the criteria
21 developed under Section 39.204 shall be awarded a distinction
22 designation by the commissioner for outstanding performance in
23 academic achievement in English language arts, mathematics, or
24 science[~~, or social studies~~].

25 SECTION 25. Section 51.338(c), Education Code, is amended
26 to read as follows:

27 (c) A student who has achieved scores set by the board on the

1 questions developed for end-of-course assessment instruments under
2 Section [39.0233\(a\)](#), as that section existed before repeal by
3 .B. _____, Acts of the 88th Legislature, Regular Session, 2023, is
4 exempt from the requirements of this subchapter. The exemption is
5 effective for the three-year period following the date a student
6 takes the last assessment instrument for purposes of this
7 subchapter and achieves the standard set by the board. This
8 subsection does not apply during any period for which the board
9 designates the questions developed for end-of-course assessment
10 instruments under Section [39.0233\(a\)](#), as that section existed
11 before repeal by .B. _____, Acts of the 88th Legislature, Regular
12 Session, 2023, as the primary assessment instrument under this
13 subchapter, except that the three-year period described by this
14 subsection remains in effect for students who qualify for an
15 exemption under this subsection before that period.

16 SECTION 26. The following provisions of the Education Code
17 are repealed:

- 18 (1) Sections [39.023\(a-15\)](#), (c-2), (c-4), (c-6),
19 (c-7), (c-9), and (d);
- 20 (2) Section [39.0233](#);
- 21 (3) Section [39.024](#);
- 22 (4) Sections [39.025\(a-1\)](#), (a-2), (a-3), (a-5), and
23 (e-1);
- 24 (5) Section [39.053\(d-1\)](#); and
- 25 (6) Section [39.203\(d\)](#).

26 SECTION 27. As soon as practicable after the effective date
27 of this Act, the Texas Education Agency shall adopt alternative

1 adaptive assessment instruments as required by Section 39.02342,
2 Education Code, as added by this Act.

3 SECTION 28. As soon as practicable after the effective date
4 of this Act, each school district shall provide notice to an eighth
5 grade student under Section 39.025(g), Education Code, informing
6 the student of the specific requirements applicable to the student
7 under Sections 39.023(c) and 39.025(a), Education Code, as amended
8 by this Act.

9 SECTION 29. (a) Except as provided by Subsection (b), this
10 Act applies beginning with the 2023-2024 school year.

11 (b) Section 39.02342, Education Code, as added by this Act,
12 applies beginning with the 2024-2025 school year.

13 SECTION 30. Not later than January 1, 2024, the Texas
14 Education Agency shall apply to the United States Department of
15 Education for a waiver of the annual alternate assessment of
16 students with significant cognitive disabilities required under
17 the Every Student Succeeds Act (20 U.S.C. Section 6301 et seq.) and
18 the Individuals with Disabilities Education Act (20 U.S.C. Section
19 1400 et seq.).

20 SECTION 31. This Act takes effect immediately if it
21 receives a vote of two-thirds of all the members elected to each
22 house, as provided by Section 39, Article III, Texas Constitution.
23 If this Act does not receive the vote necessary for immediate
24 effect, this Act takes effect September 1, 2023.