

By: Bettencourt, et al.

S.B. No. 1962

A BILL TO BE ENTITLED

AN ACT

relating to the assessment of public school students, public school accountability and actions, and proceedings challenging the operations of the public school system.

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

SECTION 1. Section 7.056(e), Education Code, is amended to read as follows:

(e) Except as provided by Subsection (f), a school campus or district may not receive an exemption or waiver under this section from:

(1) a prohibition on conduct that constitutes a criminal offense;

(2) a requirement imposed by federal law or rule, including a requirement for special education or bilingual education programs; or

(3) a requirement, restriction, or prohibition relating to:

(A) essential knowledge or skills under Section 28.002 or high school graduation requirements under Section 28.025;

(B) public school accountability as provided by Subchapters B, C, D, and J, Chapter 39, and Chapter 39A;

(C) extracurricular activities under Section 33.081 ~~[or participation in a University Interscholastic League area, regional, or state competition under Section 33.0812]~~;

- (D) health and safety under Chapter 38;
- (E) purchasing under Subchapter B, Chapter 44;
- (F) elementary school class size limits, except as provided by Section 25.112;
- (G) removal of a disruptive student from the classroom under Subchapter A, Chapter 37;
- (H) at-risk programs under Subchapter C, Chapter 29;
- (I) prekindergarten programs under Subchapter E, Chapter 29;
- (J) educator rights and benefits under Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter A, Chapter 22;
- (K) special education programs under Subchapter A, Chapter 29;
- (L) bilingual education programs under Subchapter B, Chapter 29; or
- (M) the requirements for the first day of instruction under Section 25.0811.

SECTION 2. Section 7.057(d), Education Code, is amended to read as follows:

(d) A person aggrieved by an action of the agency or decision of the commissioner under this section may appeal to a district court in Travis County. An appeal must be made by serving the commissioner with citation issued and served in the manner provided by law for civil suits. The petition must state the action or decision from which the appeal is taken. At trial, the court

1 shall determine all issues of law and fact, except as provided by
2 Section 33.081(g).

3 SECTION 3. Section 11.182(b), Education Code, is amended to
4 read as follows:

5 (b) A board of trustees may determine whether to use the
6 evaluation tool, except as required by Section 39A.002 [~~39.102(a)~~].

7 SECTION 4. Section 39.022, Education Code, is amended to
8 read as follows:

9 Sec. 39.022. INSTRUCTIONALLY SUPPORTIVE ASSESSMENT SYSTEM
10 [~~PROGRAM~~]. (a) The agency [~~State Board of Education by rule~~] shall
11 create and implement a balanced and streamlined statewide
12 assessment system for assessment instruments administered under
13 this subchapter [~~program that is knowledge- and skills-based~~] to
14 ensure school accountability for student achievement that:

15 (1) is aligned with the essential knowledge and skills
16 adopted by the State Board of Education under Section 28.002;

17 (2) achieves the goals provided under Section 4.002;
18 and

19 (3) prioritizes student learning.

20 (b) The agency [~~After adopting rules under this section, the~~
21 ~~State Board of Education~~] shall consider the importance of
22 maintaining stability in the statewide assessment system [~~program~~]
23 when modifying the system [~~adopting any subsequent modification of~~
24 ~~the rules~~].

25 (c) [~~(b)~~] It is the policy of this state that the statewide
26 assessment system [~~program~~] be designed to:

27 (1) provide assessment instruments that are as short

as practicable; and

(2) minimize the disruption to the educational program.

(d) The assessment system implemented under this section must include:

(1) assessment instruments administered under Sections 39.023(a), (c), and (1);

(2) beginning-of-year and middle-of-year assessment instruments described by Section 39.023(o-1); and

(3) technical assistance and guidance to school districts and open-enrollment charter schools for implementing the assessment system, including assistance and guidance on:

(A) implementing a comprehensive assessment strategy that:

(i) improves student performance and promotes mastery of the essential knowledge and skills; and

(ii) informs educators regarding assessment requirements; and

(B) reducing the assessment burden on students and school personnel.

SECTION 5. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.0225 to read as follows:

Sec. 39.0225. TRANSITION OF ASSESSMENT SYSTEM. (a) The agency shall transition the system for assessment instruments administered under this subchapter to incorporate improvements identified in reports submitted under Section 39.0236(d).

(b) For purposes of making the transition under Subsection

1 (a), the agency shall adopt or develop the following assessment
2 instruments to be administered beginning no later than the
3 2027-2028 school year:

4 (1) an end-of-year assessment instrument for each
5 subject or course for each grade level subject to assessment under
6 Section 39.023; and

7 (2) optional beginning-of-year and middle-of-year
8 progress monitoring assessment instruments for each subject and
9 grade level subject to assessment under Sections 39.023(a)(1)
10 through (4).

11 (c) To the extent practicable, the end-of-year assessment
12 instruments described by Subsection (b)(1) shall:

13 (1) be shorter than the assessment instruments
14 administered during the 2024-2025 school year under Sections
15 39.023(a), (c), and (1);

16 (2) be scheduled as close to the end of the school year
17 as practicable;

18 (3) allow for results to be provided as quickly as
19 practicable; and

20 (4) for a reading language arts assessment instrument,
21 include open-ended questions that:

22 (A) are administered separately; and

23 (B) scored using a process that:

24 (i) involves classroom teachers; and

25 (ii) allows for a school district or
26 open-enrollment charter school to submit student responses for
27 rescoring.

1 (d) To the extent practicable, the progress monitoring
2 assessment instruments described by Subsection (b)(2) shall:

3 (1) provide progress monitoring information related
4 to essential knowledge and skills for the assessed subject to
5 support instruction during the school year;

6 (2) be designed to be predictive of, without
7 intervention, a student's performance on the applicable
8 end-of-year assessment instrument; and

9 (3) serve as an optional and free benchmark assessment
10 tool for school districts and open-enrollment charter schools.

11 (e) The agency shall provide technical assistance and
12 guidance to school districts and open-enrollment charter schools as
13 described by Section 39.022(d)(3) that, to the extent practicable,
14 includes strategies for districts and schools to reduce assessment
15 burdens not later than the beginning of the 2027-2028 school year.

16 (f) Students shall continue to be assessed under the
17 preceding assessment program for assessment instruments
18 administered under this subchapter until the applicable assessment
19 instrument for a subject or course and grade level is replaced by an
20 assessment instrument adopted or developed under this section.

21 (g) The agency shall conduct a performance comparison
22 analysis between the assessment system adopted or developed under
23 this section and the preceding assessment program for assessment
24 instruments administered under this subchapter to establish
25 roughly comparable standards for the issuance of performance
26 ratings under Section 39.054 for the school year the system adopted
27 or developed under this section is implemented.

1 (h) This section expires September 1, 2028.

2 SECTION 6. Section 39.023, Education Code, is amended by
3 amending Subsections (a-11), (c), (c-3), (c-8), (e), (g), (i), (l),
4 and (o) and adding Subsection (o-1) to read as follows:

5 (a-11) Before an assessment instrument adopted or developed
6 under Subsection (a) may be administered under that subsection, the
7 assessment instrument must, on the basis of empirical evidence, be
8 determined to be valid and reliable by the advisory committees
9 established under Section 39.02302 or an entity that is, as
10 determined by the commissioner, independent of the agency and of
11 any other entity that developed the assessment instrument.

12 (c) The agency shall also adopt end-of-course assessment
13 instruments for secondary-level courses in Algebra I, biology,
14 English I, English II, and United States history. The Algebra I
15 end-of-course assessment instrument must be administered with the
16 aid of technology, but may include one or more parts that prohibit
17 the use of technology. The English I and English II end-of-course
18 assessment instruments must each assess essential knowledge and
19 skills in both reading and writing and must provide a single score.
20 A school district shall comply with agency [~~State Board of~~
21 ~~Education~~] rules regarding administration of the assessment
22 instruments listed in this subsection. If a student is in a special
23 education program under Subchapter A, Chapter 29, the student's
24 admission, review, and dismissal committee shall determine whether
25 any allowable modification is necessary in administering to the
26 student an assessment instrument required under this subsection.
27 The agency [~~State Board of Education~~] shall administer the

1 assessment instruments. An end-of-course assessment instrument
 2 may be administered in multiple parts over more than one day. [~~The~~
 3 ~~State Board of Education shall adopt a schedule for the~~
 4 ~~administration of end-of-course assessment instruments that~~
 5 ~~complies with the requirements of Subsection (c-3).~~]

6 (c-3) The agency shall adopt a schedule for the
 7 administration of assessment instruments under this section for
 8 each school year and, to the extent practicable, provide the
 9 schedule to each school district and open-enrollment charter school
 10 two years before the school year to which the schedule applies. To
 11 the extent practicable and for the purpose of mitigating local
 12 scheduling conflicts, including University Interscholastic League
 13 athletic competitions, the schedule adopted under this section must
 14 establish testing windows for the administration of each assessment
 15 instrument and allow a district or school to administer an
 16 assessment instrument on any date selected by the district or
 17 school that falls within the testing window for the instrument
 18 ~~[Except as provided by Subsection (c-7) or (c-10) or as otherwise~~
 19 ~~provided by this subsection, in adopting a schedule for the~~
 20 ~~administration of assessment instruments under this section, the~~
 21 ~~State Board of Education shall ensure that assessment instruments~~
 22 ~~administered under Subsection (a) or (c) are not administered on~~
 23 ~~the first instructional day of a week. On request by a school~~
 24 ~~district or open-enrollment charter school, the commissioner may~~
 25 ~~allow the district or school to administer an assessment instrument~~
 26 ~~required under Subsection (a) or (c) on the first instructional day~~
 27 ~~of a week if administering the assessment instrument on another~~

~~instructional day would result in a significant administrative burden due to specific local conditions].~~

(c-8) At least 25 ~~[Beginning with the 2022-2023 school year, not more than 75]~~ percent of the available points on an assessment instrument developed under Subsection (a) or (c) must ~~[may]~~ be attributable to questions that are not presented in a multiple choice format.

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

(g) The agency ~~[State Board of Education]~~ may adopt one appropriate, nationally recognized, norm-referenced assessment instrument in reading and mathematics to be administered to a selected sample of students in the spring. If adopted, a norm-referenced assessment instrument must be a secured test. The

1 state may pay the costs of purchasing and scoring the adopted
2 assessment instrument and of distributing the results of the
3 adopted instrument to the school districts. A district that
4 administers the norm-referenced test adopted under this subsection
5 shall report the results to the agency in a manner prescribed by the
6 commissioner.

7 (i) The provisions of this section, except Subsection (d),
8 are subject to modification by rules adopted under Section [39.001](#)
9 [~~[39.022](#)~~]. Each assessment instrument adopted under those rules and
10 each assessment instrument required under Subsection (d) must be
11 reliable and valid and must meet any applicable federal
12 requirements for measurement of student progress.

13 (1) The agency [~~State Board of Education~~] shall adopt rules
14 for the administration of the assessment instruments adopted under
15 Subsection (a) in Spanish to emergent bilingual students in grades
16 three through five, as defined by Section [29.052](#), whose primary
17 language is Spanish, and who are not otherwise exempt from the
18 administration of an assessment instrument under Section
19 [39.027](#)(a)(1) or (2). Each emergent bilingual student whose primary
20 language is Spanish, other than a student to whom Subsection (b)
21 applies, may be assessed using assessment instruments in Spanish
22 under this subsection for up to three years or assessment
23 instruments in English under Subsection (a). The language
24 proficiency assessment committee established under Section [29.063](#)
25 shall determine which students are administered assessment
26 instruments in Spanish under this subsection.

27 (o) The agency shall adopt or develop optional interim

1 assessment instruments for each ~~[subject or]~~ course ~~[for each grade~~
2 ~~level]~~ subject to an end-of-course assessment under this section.

3 A school district or open-enrollment charter school may ~~[not be~~
4 ~~required to]~~ administer to students enrolled at the district or
5 school interim assessment instruments adopted or developed under
6 this subsection. An interim assessment instrument:

7 (1) must be:

8 (A) when possible, predictive of the
9 end-of-course assessment instrument for the applicable ~~[subject~~
10 ~~or]~~ course ~~[for that grade level]~~ required under this section; and

11 (B) administered electronically; and

12 (2) may not be used for accountability purposes.

13 (o-1) The agency shall adopt or develop optional
14 beginning-of-year and middle-of-year progress monitoring
15 assessment instruments for each subject and grade level subject to
16 assessment under Sections 39.023(a)(1) through (4). A school
17 district or open-enrollment charter school may administer to
18 students enrolled at the district or school progress monitoring
19 assessment instruments adopted or developed under this subsection.

20 A progress monitoring assessment instrument must:

21 (1) provide to the district or school administering
22 the assessment instrument information regarding student
23 proficiency in the essential knowledge and skills for the assessed
24 subject to support instruction during the school year; and

25 (2) be designed to be predictive of, without
26 intervention, a student's performance on the applicable
27 end-of-year assessment instrument.

SECTION 7. Section 39.0238(b), Education Code, is amended to read as follows:

(b) The board of trustees of a school district or the governing body of an open-enrollment charter school may consider the dates of religious holy days or periods of observance likely to be observed by the students enrolled in the district or school during the period set by the agency [~~State Board of Education~~] for the administration of assessment instruments required under Section 39.023 in establishing:

(1) the district's or school's calendar for that school year; and

(2) the instructional days within that period on which district or school students are administered the required assessment instruments, provided that the board of trustees or governing body may not exclude more than two instructional days from that period based solely on the occurrence of a single religious holy day or period of observance.

SECTION 8. Section 39.026, Education Code, is amended to read as follows:

Sec. 39.026. LOCAL OPTION. In addition to the assessment instruments adopted and administered by the agency [~~and administered by the State Board of Education~~], a school district may, subject to Section 39.0263, adopt and administer criterion-referenced or norm-referenced assessment instruments, or both, at any grade level. A norm-referenced assessment instrument adopted under this section must be economical, nationally recognized, and state-approved.

SECTION 9. The heading to Section 39.0263, Education Code, is amended to read as follows:

Sec. 39.0263. ADMINISTRATION OF DISTRICT-REQUIRED OR CAMPUS-REQUIRED BENCHMARK ASSESSMENT INSTRUMENTS [~~TO PREPARE STUDENTS FOR STATE-ADMINISTERED ASSESSMENT INSTRUMENTS~~].

SECTION 10. Section 39.0263, Education Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (e) to read as follows:

(a) In this section, "benchmark assessment instrument" means a district-required or campus-required assessment instrument that is administered to all or most students for a subject or course in a particular grade level and that is not curriculum-embedded, including an assessment instrument, such as a practice test or a nationally norm-referenced assessment instrument, designed to prepare students for a corresponding state-administered assessment instrument.

(b) Except as provided by Subsection (c), a school district or campus may not administer to any student more than two benchmark assessment instruments during a school year before the administration of an end-of-year [~~to prepare the student for a corresponding state-administered~~] assessment instrument.

(c) The prohibition prescribed by this section does not apply to:

(1) the administration of a college preparation assessment instrument, including the PSAT, the ACT-Plan, the SAT, or the ACT, an advanced placement test, or an international baccalaureate examination;

1 (2) [~~7-01~~] an independent classroom examination
2 designed or adopted and administered by a classroom teacher;

3 (3) a diagnostic assessment included in a screening or
4 testing for dyslexia or a related disorder; or

5 (4) an assessment instrument required under state law,
6 including under Chapter 28 or 29.

7 (e) If the agency determines that a school district or
8 campus is in violation of this section, in addition to any
9 enforcement actions or remedies available to the agency under other
10 law, the agency may require the district or campus to receive
11 technical assistance described by Section 39.022(d)(3).

12 SECTION 11. Section 39.027(b), Education Code, is amended
13 to read as follows:

14 (b) The agency [~~State Board of Education~~] shall adopt rules
15 under which a dyslexic student who is not exempt under Subsection
16 (a) may use procedures including oral examinations if appropriate
17 or may be allowed additional time or the materials or technology
18 necessary for the student to demonstrate the student's mastery of
19 the competencies the assessment instruments are designed to
20 measure.

21 SECTION 12. Section 39.028, Education Code, is amended to
22 read as follows:

23 Sec. 39.028. COMPARISON OF STATE RESULTS TO NATIONAL
24 RESULTS. The state assessment system [~~program~~] shall obtain
25 nationally comparative results for the subject areas and grade
26 levels for which criterion-referenced assessment instruments are
27 adopted under Section 39.023.

SECTION 13. Section 39.029, Education Code, is amended to read as follows:

Sec. 39.029. MIGRATORY CHILDREN. The agency [~~State Board of Education~~] by rule may provide alternate dates for the administration of the assessment instruments to a student who is a migratory child as defined by 20 U.S.C. Section 6399. The alternate dates may be chosen following a consideration of migrant work patterns, and the dates selected may afford maximum opportunity for the students to be present when the assessment instruments are administered.

SECTION 14. Section 39.030(a), Education Code, is amended to read as follows:

(a) In adopting academic skills assessment instruments under this subchapter, the agency [~~State Board of Education~~] or a school district shall ensure the security of the instruments and tests in their preparation, administration, and grading. Meetings or portions of meetings held by the agency [~~State Board of Education~~] or a school district at which individual assessment instruments or assessment instrument items are discussed or adopted are not open to the public under Chapter 551, Government Code, and the assessment instruments or assessment instrument items are confidential.

SECTION 15. Sections 39.032(c-1) and (e), Education Code, are amended to read as follows:

(c-1) The standardization norms computed under Subsection (c) shall be:

(1) based on a national probability sample that meets

1 accepted standards for educational and psychological testing; and

2 (2) updated at least every eight years using proven
3 psychometric procedures approved by the agency [~~State Board of~~
4 ~~Education~~].

5 (e) The agency [~~State Board of Education~~] shall adopt rules
6 for the implementation of this section and for the maintenance of
7 the security of the contents of all assessment instruments.

8 SECTION 16. Section 39.054(b-1), Education Code, is
9 transferred to Section 39.052, Education Code, redesignated as
10 Section 39.052(b-1), Education Code, and amended to read as
11 follows:

12 (b-1) Consideration of the effectiveness of district
13 programs under Subsection (b)(2)(B) [~~Section 39.052(b)(2)(B)~~] or
14 (C):

15 (1) must:

16 (A) be based on data collected through the Public
17 Education Information Management System (PEIMS) for purposes of
18 accountability under this chapter; and

19 (B) include the results of assessments required
20 under Section 39.023; and

21 (2) may be based on the results of a special
22 investigation conducted under Section 39.003.

23 SECTION 17. Section 39.053, Education Code, is amended by
24 amending Subsections (a), (c), and (f) and adding Subsections
25 (c-4), (f-1), (f-2), (f-3), and (f-4) to read as follows:

26 (a) The commissioner shall adopt a set of indicators of the
27 quality of learning and achievement, including the indicators under

Subsection (c). The commissioner periodically shall review the indicators for the consideration of appropriate revisions and may, if the commissioner determines an indicator otherwise required under this subchapter is not valid or reliable, exclude the indicator from the set of indicators adopted under this section.

(c) School districts and campuses must be evaluated based on three domains of indicators of achievement adopted under this section that include:

(1) in the student achievement domain, indicators of student achievement that must include:

(A) for evaluating the performance of districts and campuses generally:

(i) an indicator that accounts for the results of assessment instruments required under Sections 39.023(a), (c), and (l), as applicable for the district and campus, including the results of assessment instruments required for graduation retaken by a student, aggregated across grade levels by subject area, including:

(a) for the performance standard determined by the commissioner under Section 39.0241(a), the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and

(b) for the college readiness performance standard as determined under Section 39.0241, the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject

1 area; and

2 (ii) an indicator that accounts for the
3 results of assessment instruments required under Section
4 39.023(b), as applicable for the district and campus, including the
5 percentage of students who performed satisfactorily on the
6 assessment instruments, as determined by the performance standard
7 adopted by the agency, aggregated across grade levels by subject
8 area; and

9 (B) for evaluating the performance of high school
10 campuses and districts that include high school campuses,
11 indicators that account for:

12 (i) students who satisfy the Texas Success
13 Initiative (TSI) college readiness benchmarks prescribed by the
14 Texas Higher Education Coordinating Board under Section 51.334 on
15 an assessment instrument in reading or mathematics designated by
16 the coordinating board under that section;

17 (ii) students who satisfy relevant
18 performance standards on advanced placement tests or similar
19 assessments;

20 (iii) students who earn dual course credits
21 in the dual credit courses;

22 (iv) students who demonstrate military
23 readiness:

24 (a) through verified enlistment
25 ~~[enlist]~~ in the armed forces of the United States or the Texas
26 National Guard; or

27 (b) by achieving a passing score set

1 by the commissioner on the Armed Services Vocational Aptitude
2 Battery Test and successfully completing a Junior Reserve Officer
3 Training Corps program;

4 (v) students who earn industry
5 certifications;

6 (vi) students admitted into postsecondary
7 industry certification programs that require as a prerequisite for
8 entrance successful performance at the secondary level;

9 (vii) students whose successful completion
10 of a course or courses under Section 28.014 indicates the student's
11 preparation to enroll and succeed, without remediation, in an
12 entry-level general education course for a baccalaureate degree or
13 associate degree;

14 (viii) students who successfully met
15 standards on a composite of indicators that through research
16 indicates the student's preparation to enroll and succeed, without
17 remediation, in an entry-level general education course for a
18 baccalaureate degree or associate degree;

19 (ix) high school graduation rates, computed
20 in accordance with standards and definitions adopted in compliance
21 with the Every Student Succeeds Act (20 U.S.C. Section 6301 et seq.)
22 subject to the exclusions provided by Subsections (g), (g-1),
23 (g-2), (g-3), and (g-4);

24 (x) students who successfully completed an
25 OnRamps dual enrollment course;

26 (xi) students who successfully completed a
27 practicum or internship approved by the State Board of Education;

(xii) students who are awarded an associate degree; and

(xiii) students who successfully completed a program of study in career and technical education;

(2) in the school progress domain, indicators for effectiveness in promoting student learning, which must include:

(A) for assessment instruments, including assessment instruments under Subdivisions (1)(A)(i) and (ii), the percentage of students who met the standard for improvement, as determined by the commissioner; and

(B) for evaluating relative performance, the performance of districts and campuses compared to similar districts or campuses; and

(3) in the closing the gaps domain, the use of disaggregated data to demonstrate the differentials among students from different racial and ethnic groups, socioeconomic backgrounds, and other factors, including:

(A) students formerly receiving special education services;

(B) students continuously enrolled; and

(C) students who are mobile.

(c-4) The agency shall study the college, career, and military readiness indicators adopted under Subsection (c) to determine the correlation of each indicator with postsecondary success, including the correlation of industry certifications with wages and available jobs. The value assigned to each indicator must be:

1 (1) based on the strength of the indicator's
2 correlation with successful outcomes; and

3 (2) updated in accordance with Subsection (f-1).

4 (f) Annually, the commissioner shall define and may modify
5 the state standards [~~standard for the current school year~~] for each
6 [~~achievement~~] indicator adopted under this subchapter in
7 [~~section. In~~] consultation with educators, parents, and business
8 and industry representatives, as necessary. The [~~, the~~]
9 commissioner shall increase the rigor by which the commissioner
10 determines the overall performance ratings under Section 39.054(a)
11 [~~establish and modify standards~~] to continuously improve student
12 performance to, not later than the 15th year after the date the
13 commissioner modifies the performance standards under Subsection
14 (f-1), achieve the goals of:

15 (1) eliminating achievement gaps based on race,
16 ethnicity, and socioeconomic status; and

17 (2) ensuring [~~to ensure~~] this state ranks nationally
18 [~~is a national leader~~] in the top five states in preparing students
19 for postsecondary success and on the National Assessment of
20 Educational Progress or its successor assessment.

21 (f-1) Beginning with the indicators adopted for the
22 2027-2028 school year and as required to meet the goals under
23 Subsection (f), the commissioner shall increase the scores needed
24 to achieve performance standards on indicators adopted under this
25 subchapter only every fifth school year unless an indicator adopted
26 under Subsection (c) requires adjustment before that school year to
27 ensure consistency of performance standards.

1 (f-2) To the extent practicable, for each of the two school
2 years preceding a school year the commissioner increases a score
3 under Subsection (f-1), the commissioner shall report, in a manner
4 that can be reviewed by school administrators, the overall
5 performance of school districts and campuses under that increased
6 score.

7 (f-3) In reporting the performance of school districts and
8 campuses on indicators adopted under this subchapter for a school
9 year in which the score needed to achieve performance standards on
10 one or more of those indicators was increased under Subsection
11 (f-1), the commissioner shall include in the report an
12 informational report on the performance of districts and campuses
13 during the preceding school year under the increased score.

14 (f-4) Notwithstanding Subsection (f), the commissioner may
15 define state standards for an indicator adopted under this
16 subchapter for multiple school years provided that the commissioner
17 annually affirms that those standards are applicable to the current
18 school year. The commissioner is not required to adopt the
19 affirmation described by this subsection by rule.

20 SECTION 18. Subchapter C, Chapter 39, Education Code, is
21 amended by adding Section 39.0531 to read as follows:

22 Sec. 39.0531. INDUSTRY CERTIFICATION LIST. (a) The agency
23 shall maintain a list of industry certifications that are eligible
24 for purposes of Section 39.053(c)(1)(B)(v). In developing the
25 list, the agency shall consider the inventory of
26 industry-recognized certifications developed under Section
27 312.003, Labor Code. The certifications must:

1 (1) be aligned to a program of study that, according to
2 labor market data, prepares students for high-wage, high-skill,
3 in-demand occupations;

4 (2) allow students to demonstrate mastery of the
5 skills required for occupations within an approved program of
6 study; and

7 (3) be obtained through an assessment of the knowledge
8 and skills provided by or determined by an independent, third-party
9 certifying entity using predetermined standards for knowledge,
10 skills, and competencies.

11 (b) The agency shall review the eligibility of industry
12 certifications under Subsection (a), including whether the
13 programs of study for those certifications still meet the
14 requirements under that subsection:

15 (1) in consultation with the advisory council
16 established under Chapter 312, Labor Code; and

17 (2) to the extent practicable, concurrently with the
18 modification of performance standards under Section 39.053(f-1).

19 (c) If, after reviewing an industry certification under
20 Subsection (b), the agency determines the certification is no
21 longer eligible for purposes of Section 39.053(c)(1)(B)(v) and
22 should be removed from the list maintained under Subsection (a),
23 the agency shall, to the extent practicable, post on the agency's
24 Internet website information regarding the removal of the
25 certification not later than two years before the date the agency
26 intends to remove the certification from the list.

27 (d) During the three years following an agency's

determination under Subsection (c) that an industry certification is no longer eligible for purposes of Section 39.053(c)(1)(B)(v), a school district may receive the benefit of achievement indicators based on that industry certification for purposes of Section 39.053(c) only for a cohort of students who:

(1) were participating in the program of study aligned with that certification during the school year the agency determines the certification is no longer eligible; and

(2) earn the certification within the three-year period.

SECTION 19. Section 39.054, Education Code, is amended by amending Subsections (a), (a-3), (a-4), (a-5), and (b) and adding Subsections (a-6), (a-7), (c), and (d) to read as follows:

(a) Except as provided by Subsection (a-4), the commissioner shall adopt rules to evaluate school district and campus performance and, each school year, assign each district and campus an overall performance rating of A, B, C, D, or F. In addition to the overall performance rating, each school year, the commissioner shall assign each district and campus a separate domain performance rating of A, B, C, D, or F for each domain under Section 39.053(c). An overall or domain performance rating of A reflects exemplary performance. An overall or domain performance rating of B reflects recognized performance. An overall or domain performance rating of C reflects acceptable performance. An overall or domain performance rating of D reflects performance that needs improvement. An overall or domain performance rating of F reflects unacceptable performance. A district may not receive an

1 overall or domain performance rating of A if the district includes
2 any campus with a corresponding overall or domain performance
3 rating of D or F. If a school district has been approved under
4 Section 39.0544 to assign campus performance ratings and the
5 commissioner has not assigned a campus an overall performance
6 rating of D or F, the commissioner shall assign the campus an
7 overall performance rating based on the school district assigned
8 performance rating under Section 39.0544.

9 (a-3) Except as provided by Subsection (c), not ~~[Not]~~ later
10 than August 15 of each year, the following information shall be made
11 publicly available as provided by rules adopted under this
12 section:

13 (1) the performance ratings for each school district
14 and campus; and

15 (2) if applicable, the number of consecutive school
16 years of unacceptable performance ratings for each district and
17 campus.

18 (a-4) Notwithstanding any other law and except as provided
19 by Subsection (a-6), the commissioner may assign a school district
20 or campus an overall performance rating of "Not Rated" if the
21 commissioner determines that the assignment of a performance rating
22 of A, B, C, D, or F would be inappropriate because:

23 (1) the district or campus is located in an area that
24 is subject to a declaration of a state of disaster under Chapter
25 418, Government Code, and due to the disaster, performance
26 indicators for the district or campus are difficult to measure or
27 evaluate and would not accurately reflect quality of learning and

1 achievement for the district or campus;

2 (2) the district or campus has experienced breaches or
3 other failures in data integrity to the extent that accurate
4 analysis of data regarding performance indicators is not possible;

5 (3) the number of students enrolled in the district or
6 campus is insufficient to accurately evaluate the performance of
7 the district or campus; or

8 (4) for other reasons outside the control of the
9 district or campus, the performance indicators would not accurately
10 reflect quality of learning and achievement for the district or
11 campus.

12 (a-5) Notwithstanding any other law, an overall performance
13 rating of "Not Rated" is not included in calculating consecutive
14 school years of unacceptable performance ratings and is not
15 considered a break in consecutive school years of unacceptable
16 performance ratings for purposes of any provision of this code. Any
17 interventions or sanctions to which a school district or campus is
18 subject under Chapter 39A shall continue during a period in which
19 the district or campus is assigned an overall performance rating of
20 "Not Rated."

21 (a-6) The commissioner may not assign an overall
22 performance rating of "Not Rated" to all school districts or all
23 campuses on a statewide basis.

24 (a-7) If the agency makes changes to the assessment system
25 under Section 39.022 for assessment instruments administered under
26 this subchapter that require new standards for issuing performance
27 ratings under this section, the agency must conduct a performance

1 comparison analysis between the system as changed and the preceding
2 system to establish roughly comparable standards for issuing
3 performance ratings. Failure to conduct a performance comparison
4 analysis as required under this subsection does not prevent the
5 assignment of performance ratings under this section and may not be
6 the basis of a challenge to a performance rating assigned under this
7 section.

8 (b) For purposes of assigning school districts and campuses
9 an overall and a domain performance rating under Subsection (a),
10 the commissioner shall, to the extent practicable, ensure that the
11 method used to evaluate performance is implemented in a manner that
12 provides the mathematical possibility that all districts and
13 campuses receive an A rating.

14 (c) The commissioner shall make the information under
15 Subsection (a-3) available as soon as reasonably possible in years
16 in which the standards are modified or recalibrated or in which a
17 new assessment instrument is offered.

18 (d) Failure to assign a performance rating to a school
19 district or campus before the deadline provided by Subsection (a-3)
20 does not invalidate the performance rating assigned to the district
21 or campus or any resulting intervention or sanction imposed on the
22 district or campus.

23 SECTION 20. Section 39.0541, Education Code, is amended to
24 read as follows:

25 Sec. 39.0541. ADOPTION OF INDICATORS AND STANDARDS. The
26 commissioner may adopt indicators and standards under this
27 subchapter at any time [~~during a school year~~] before issuing the

1 evaluation of a school district or campus.

2 SECTION 21. Section 39.0542, Education Code, is amended by
3 amending Subsection (a) and adding Subsection (d) to read as
4 follows:

5 (a) The ~~[Each school year, the]~~ commissioner shall provide
6 each school district a document in a simple, accessible format that
7 explains the accountability performance measures, methods, and
8 procedures that will be applied ~~[for that school year]~~ in assigning
9 each school district and campus a performance rating under Section
10 39.054.

11 (d) Failure to provide the document described by Subsection
12 (a) does not prevent the assignment of performance ratings under
13 Section 39.054 and may not be the basis of a challenge to a
14 performance rating assigned under that section.

15 SECTION 22. Section 39.151(e), Education Code, is amended
16 to read as follows:

17 (e) A school district or open-enrollment charter school may
18 not challenge on any basis, including a lack of commissioner or
19 agency authority, an agency decision relating to an academic or
20 financial accountability rating under this chapter, including a
21 decision relating to a determination of consecutive school years of
22 unacceptable performance ratings, in another proceeding unless
23 [if] the district or school has exhausted the district's or school's
24 remedies ~~[had an opportunity to challenge the decision]~~ under this
25 section.

26 SECTION 23. Section 39.201(a), Education Code, is amended
27 to read as follows:

1 (a) The ~~[Not later than August 8 of each year, the]~~
2 commissioner shall award distinction designations for outstanding
3 performance as provided by this subchapter concurrently with the
4 assignment of performance ratings under Section 39.054. A
5 distinction designation awarded to a district or campus under this
6 subchapter shall be referenced directly in connection with the
7 performance rating assigned to the district or campus and made
8 publicly available together with the performance ratings as
9 provided by rules adopted under Section 39.054 ~~[39.054(a)]~~.

10 SECTION 24. Subchapter H, Chapter 39, Education Code, is
11 amended by adding Section 39.231 to read as follows:

12 Sec. 39.231. LOCAL ACCOUNTABILITY GRANT PROGRAM. (a) From
13 money appropriated or otherwise available for the purpose, the
14 agency shall establish a grant program with capacity to assist at
15 least one school district per education service center region in
16 developing a local accountability system that complies with the
17 requirements of Section 39.0544.

18 (b) The commissioner shall adopt rules to implement this
19 section.

20 SECTION 25. Section 39A.001, Education Code, is amended to
21 read as follows:

22 Sec. 39A.001. GROUNDS FOR COMMISSIONER ACTION. The
23 commissioner shall take any of the actions authorized by this
24 subchapter to the extent the commissioner determines necessary if:

25 (1) a school district does not satisfy:
26 (A) the accreditation criteria under Section
27 39.052;

1 (B) the academic performance standards under
2 Section 39.053 or 39.054; or

3 (C) any financial accountability standard as
4 determined by commissioner rule; ~~or~~

5 (2) the commissioner considers the action to be
6 appropriate on the basis of a special investigation under Section
7 39.003; or

8 (3) a school district initiates or maintains an action
9 or proceeding against the state or an agency or officer of the
10 state.

11 SECTION 26. Subchapter A, Chapter 39A, Education Code, is
12 amended by adding Section 39A.008 to read as follows:

13 Sec. 39A.008. INTERVENTION RELATED TO SCHOOL DISTRICT OR
14 OPEN-ENROLLMENT CHARTER SCHOOL ACTION OR PROCEEDING AGAINST STATE.

15 (a) This section applies to a school district or open-enrollment
16 charter school subject to commissioner action under Section
17 39A.001(3).

18 (b) The commissioner may appoint a conservator to a school
19 district or open-enrollment charter school to which this section
20 applies.

21 (c) A conservator appointed under Subsection (b) shall
22 require the school district or open-enrollment charter school to
23 demonstrate, by a deadline established by the conservator, that the
24 district or school is in compliance with Section 45.105(c-1). If
25 the conservator determines that the district or school is not in
26 compliance with that section, the conservator shall order the
27 district or school to withdraw from the action or proceeding.

1 (d) If a school district or open-enrollment charter school
2 fails to comply with an order by a conservator appointed under
3 Subsection (b) by the deadline established by the conservator, the
4 commissioner may:

5 (1) for a school district, appoint a board of managers
6 to oversee the operations of the district; or

7 (2) for an open-enrollment charter school, order
8 reconstitution of the school's governing board.

9 (e) An action taken or decision made by the commissioner or
10 a conservator under this section is final and not subject to appeal
11 under Section 7.057, Chapter 39, or this chapter.

12 SECTION 27. Subchapter Z, Chapter 39A, Education Code, is
13 amended by adding Sections 39A.908 and 39A.909 to read as follows:

14 Sec. 39A.908. INTERVENTIONS AND SANCTIONS WHILE ASSIGNMENT
15 OF PERFORMANCE RATINGS ENJOINED. (a) Notwithstanding any other
16 law, during a period in which the agency is enjoined from assigning
17 performance ratings to a school district, open-enrollment charter
18 school, or district or school campus, any previously imposed
19 interventions or sanctions to which the district, school, or campus
20 is subject shall continue throughout that period.

21 (b) As soon as practicable after the dissolution of an
22 injunction described by Subsection (a), the agency shall:

23 (1) assign performance ratings for each school year
24 and to each school district, open-enrollment charter school, and
25 district or school campus for which the agency was enjoined from
26 assigning performance ratings; and

27 (2) as applicable, impose any appropriate

1 interventions or sanctions authorized under this chapter based on
2 the ratings assigned under Subdivision (1).

3 (c) Notwithstanding any other law, if the agency is
4 permanently enjoined from assigning performance ratings to a school
5 district, open-enrollment charter school, or district or school
6 campus for a school year, the agency shall consider the district,
7 school, or campus to have received a "Not Rated" rating for that
8 school year for purposes of:

9 (1) calculating consecutive years of performance; and
10 (2) determining whether to impose an intervention or
11 sanction authorized under this chapter.

12 (d) To ensure the expeditious implementation of
13 interventions or sanctions under this chapter, the agency may
14 modify or waive a deadline or time frame required by law or agency
15 rule applicable to the assignment of performance ratings for a
16 school year for which the agency was enjoined from assigning
17 performance ratings.

18 (e) Except as provided by Subsection (f) and Section
19 39A.909, the agency shall impose an intervention or sanction
20 described by Subsection (b)(2) or (c)(2) as required by law unless
21 the intervention or sanction, as determined by the commissioner:

22 (1) has been superseded by a subsequent intervention
23 or sanction; or

24 (2) may be removed based on the subsequent performance
25 of a school district, open-enrollment charter school, or district
26 or school campus.

27 (f) The commissioner shall impose an intervention described

1 by Section 12.115(c), 39A.004, or 39A.111, as applicable, on a
2 school district, open-enrollment charter school, or district or
3 school campus if the district, school, or campus would have been
4 subject to commissioner action under the applicable section based
5 on the performance rating of the district, school, or campus for a
6 school year for which the agency was enjoined from assigning
7 performance ratings, regardless of the performance of the district,
8 school, or campus in a subsequent school year.

9 (g) Except as provided by Subsection (h), the commissioner
10 shall revoke a charter holder's charter for an open-enrollment
11 charter school for which the charter holder received a charter
12 renewal based on the absence of a performance rating for a school
13 year for which the agency was enjoined from assigning a performance
14 rating if, after the assignment of performance ratings for that
15 year, the charter would not have been renewed under Section
16 12.1141(d), regardless of the performance of the school in a
17 subsequent school year.

18 (h) Subsection (g) does not apply to a charter holder for
19 which the agency has renewed the charter based on the charter holder
20 entering into and meeting the requirements of a performance
21 agreement with the agency.

22 Sec. 39A.909. INTERVENTIONS OR SANCTIONS RELATED TO
23 2022-2023 OR 2023-2024 SCHOOL YEAR PERFORMANCE RATINGS. (a) The
24 commissioner shall impose an intervention described by Section
25 12.115(c), 39A.004, or 39A.111, as applicable, on a school
26 district, open-enrollment charter school, or district or school
27 campus if the district, school, or campus would have been subject to

1 commissioner action under the applicable section based on the
2 performance rating of the district, school, or campus for the
3 2022-2023 or 2023-2024 school year, regardless of the performance
4 of the district, school, or campus in a subsequent school year.

5 (b) The commissioner shall revoke a charter holder's
6 charter for an open-enrollment charter school for which the charter
7 holder received a charter renewal based on the absence of a
8 performance rating for the 2022-2023 or 2023-2024 school year if,
9 after the assignment of performance ratings for those years, the
10 charter would not have been renewed under Section 12.1141(d),
11 regardless of the performance of the school in a subsequent school
12 year.

13 SECTION 28. Section 45.105(c-1), Education Code, is amended
14 to read as follows:

15 (c-1) Notwithstanding any other law, federal, state, or
16 local funding, including funding under Chapters 46, 48, and 49,
17 [Funds described by Subsection (c)] may not be used to initiate or
18 maintain any action or proceeding against the state or an agency or
19 officer of the state, including an action or proceeding that
20 includes a claim of ultra vires conduct [arising out of a decision,
21 order, or determination that is final and unappealable under a
22 provision of this code], except that funds may be used for an action
23 or proceeding that is specifically authorized by a provision of
24 this code or by Section 2001.038, Government Code [a rule adopted
25 under this code and that results in a final and unappealable
26 decision, order, or determination].

27 SECTION 29. Section 22A.001(a), Government Code, is amended

to read as follows:

(a) The attorney general may petition the chief justice of the supreme court to convene a special three-judge district court in any suit filed in a district court in this state in which this state or a state officer or agency is a defendant in a claim that:

(1) challenges the finances or operations of this state's public school system, including challenges to the implementation of the public school accountability system under Chapter 39, Education Code; or

(2) involves the apportionment of districts for the house of representatives, the senate, the State Board of Education, or the United States Congress, or state judicial districts.

SECTION 30. The heading to Section 312.003, Labor Code, is amended to read as follows:

Sec. 312.003. INVENTORY OF CERTIFICATIONS [~~CREDENTIALS AND CERTIFICATES~~].

SECTION 31. Sections 312.003(a), (b), (c), and (d), Labor Code, are amended to read as follows:

(a) The advisory council shall develop an inventory of industry-recognized certifications [~~credentials and certificates~~] that may be earned by a public high school student through a career and technology education program and that:

(1) are aligned to state and regional workforce needs; ~~and~~

(2) serve as an entry point to middle- and high-wage jobs; and

(3) meet the requirements of Section 39.0531(a),

1 Education Code.

2 (b) The inventory must include for each certification
3 ~~[credential or certificate]~~:

4 (1) the associated career cluster;

5 (2) the awarding entity;

6 (3) the level of education required and any additional
7 requirements for the certification ~~[credential or certificate]~~;

8 (4) any fees for obtaining the certification
9 ~~[credential or certificate]~~; and

10 (5) the average wage or salary for jobs that require or
11 prefer the certification ~~[credential or certificate]~~.

12 (c) In developing the inventory, the advisory council may
13 consult with local workforce boards, the Texas Workforce Investment
14 Council, the Texas Economic Development and Tourism Office, the
15 Texas Education Agency, and the Texas Higher Education Coordinating
16 Board.

17 (d) The advisory council shall establish a process for
18 developing the inventory, including the criteria for the inclusion
19 of a certification ~~[credential or certificate]~~ in the inventory.

20 SECTION 32. (a) Section 15, Chapter 925 (S.B. 1566), Acts
21 of the 85th Legislature, Regular Session, 2017, which amended
22 Section 39.102(a), Education Code, is repealed.

23 (b) The following provisions of the Education Code are
24 repealed:

25 (1) Section 33.0812; and

26 (2) Sections 39.023(a-4), (c-7), and (c-10).

27 SECTION 33. A rule of the State Board of Education under

1 Sections 39.022, 39.029, and 39.032(e), Education Code, that is in
2 effect on the effective date of this Act remains in effect until
3 changed by the commissioner of education in accordance with those
4 sections as amended by this Act.

5 SECTION 34. The changes in law made by Sections
6 39.023(a-11), 39.053(a), 39.054, 39.0541, and 39.0542, Education
7 Code, as amended by this Act, apply to an action or determination
8 related to public school accountability and accountability ratings
9 beginning with the 2022-2023 school year, regardless of whether the
10 action or determination occurred before, on, or after the effective
11 date of this Act.

12 SECTION 35. Section 39.023(o-1), Education Code, as added
13 by this Act, applies beginning with the 2027-2028 school year.

14 SECTION 36. The changes in law made by Section 39.053,
15 Education Code, as amended by this Act, and Section 39.0531,
16 Education Code, as added by this Act, apply to accountability
17 ratings beginning with the 2027-2028 school year.

18 SECTION 37. This Act takes effect immediately if it
19 receives a vote of two-thirds of all the members elected to each
20 house, as provided by Section 39, Article III, Texas Constitution.
21 If this Act does not receive the vote necessary for immediate
22 effect, this Act takes effect September 1, 2025.