

1-1 By: Bettencourt, et al. S.B. No. 1962
1-2 (In the Senate - Filed March 5, 2025; March 17, 2025, read
1-3 first time and referred to Committee on Education K-16;
1-4 April 9, 2025, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 1; April 9, 2025,
1-6 sent to printer.)

1-7	COMMITTEE VOTE				
1-8		Yea	Nay	Absent	PNV
1-9	Creighton	X			
1-10	Campbell	X			
1-11	Bettencourt	X			
1-12	Hagenbuch	X			
1-13	Hinojosa of Nueces	X			
1-14	King	X			
1-15	Menéndez		X		
1-16	Middleton	X			
1-17	Parker	X			
1-18	Paxton	X			
1-19	West			X	

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 1962 By: Hagenbuch

1-21 A BILL TO BE ENTITLED
1-22 AN ACT

1-23 relating to the assessment of public school students, public school
1-24 accountability and actions, and proceedings challenging the
1-25 operations of the public school system.
1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-27 SECTION 1. Section 7.056(e), Education Code, is amended to
1-28 read as follows:
1-29 (e) Except as provided by Subsection (f), a school campus or
1-30 district may not receive an exemption or waiver under this section
1-31 from:
1-32 (1) a prohibition on conduct that constitutes a
1-33 criminal offense;
1-34 (2) a requirement imposed by federal law or rule,
1-35 including a requirement for special education or bilingual
1-36 education programs; or
1-37 (3) a requirement, restriction, or prohibition
1-38 relating to:
1-39 (A) essential knowledge or skills under Section
1-40 28.002 or high school graduation requirements under Section 28.025;
1-41 (B) public school accountability as provided by
1-42 Subchapters B, C, D, and J, Chapter 39, and Chapter 39A;
1-43 (C) extracurricular activities under Section
1-44 33.081 [~~or participation in a University Interscholastic League~~
1-45 ~~area, regional, or state competition under Section 33.0812~~];
1-46 (D) health and safety under Chapter 38;
1-47 (E) purchasing under Subchapter B, Chapter 44;
1-48 (F) elementary school class size limits, except
1-49 as provided by Section 25.112;
1-50 (G) removal of a disruptive student from the
1-51 classroom under Subchapter A, Chapter 37;
1-52 (H) at-risk programs under Subchapter C, Chapter
1-53 29;
1-54 (I) prekindergarten programs under Subchapter E,
1-55 Chapter 29;
1-56 (J) educator rights and benefits under
1-57 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter
1-58 A, Chapter 22;
1-59 (K) special education programs under Subchapter
1-60 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 shall determine all issues of law and fact, except as provided by Section 33.081(g).

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

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

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

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

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

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

(3) prioritizes student learning.

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

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

(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 (l);

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

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

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

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

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

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

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

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

(A) are administered separately; and

(B) scored using a process that:

(i) involves classroom teachers; and

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

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

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

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

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

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

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

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

(h) This section expires September 1, 2028.

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

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

(c) The agency shall also adopt end-of-course assessment instruments for secondary-level courses in Algebra I, biology, English I, English II, and United States history. The Algebra I end-of-course assessment instrument must be administered with the aid of technology, but may include one or more parts that prohibit the use of technology. The English I and English II end-of-course assessment instruments must each assess essential knowledge and

skills in both reading and writing and must provide a single score. A school district shall comply with agency [~~State Board of Education~~] rules regarding administration of the assessment instruments listed in this subsection. If a student is in a special education program under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee shall determine whether any allowable modification is necessary in administering to the student an assessment instrument required under this subsection. The agency [~~State Board of Education~~] shall administer the assessment instruments. An end-of-course assessment instrument may be administered in multiple parts over more than one day. [~~The State Board of Education shall adopt a schedule for the administration of end-of-course assessment instruments that complies with the requirements of Subsection (c-3).~~]

(c-3) The agency shall adopt a schedule for the administration of assessment instruments under this section for each school year and, to the extent practicable, provide the schedule to each school district and open-enrollment charter school two years before the school year to which the schedule applies. To the extent practicable and for the purpose of mitigating local scheduling conflicts, including University Interscholastic League athletic competitions, the schedule adopted under this section must establish testing windows for the administration of each assessment instrument and allow a district or school to administer an assessment instrument on any date selected by the district or school that falls within the testing window for the instrument [~~Except as provided by Subsection (c-7) or (c-10) or as otherwise provided by this subsection, in adopting a schedule for the administration of assessment instruments under this section, the State Board of Education shall ensure that assessment instruments administered under Subsection (a) or (c) are not administered on the first instructional day of a week. On request by a school district or open-enrollment charter school, the commissioner may allow the district or school to administer an assessment instrument required under Subsection (a) or (c) on the first instructional day 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 state may pay the costs of purchasing and scoring the adopted assessment instrument and of distributing the results of the adopted instrument to the school districts. A district that administers the norm-referenced test adopted under this subsection shall report the results to the agency in a manner prescribed by the commissioner.

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

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

(o) The agency shall adopt or develop optional interim assessment instruments for each ~~[subject or]~~ course ~~[for each grade level]~~ subject to an end-of-course assessment under this section. A school district or open-enrollment charter school may ~~[not be required to]~~ administer to students enrolled at the district or school interim assessment instruments adopted or developed under this subsection. An interim assessment instrument:

(1) must be:

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

(B) administered electronically; and

(2) may not be used for accountability purposes.

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

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

(2) be designed to be predictive of, without intervention, a student's performance on the applicable 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;

(2) ~~[, or]~~ an independent classroom examination designed or adopted and administered by a classroom teacher;

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

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

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

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

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

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

Sec. 39.028. COMPARISON OF STATE RESULTS TO NATIONAL RESULTS. The state assessment system ~~[program]~~ shall obtain nationally comparative results for the subject areas and grade levels for which criterion-referenced assessment instruments are 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

7-1 administered.

7-2 SECTION 14. Section 39.030(a), Education Code, is amended
7-3 to read as follows:

7-4 (a) In adopting academic skills assessment instruments
7-5 under this subchapter, the agency [~~State Board of Education~~] or a
7-6 school district shall ensure the security of the instruments and
7-7 tests in their preparation, administration, and grading. Meetings
7-8 or portions of meetings held by the agency [~~State Board of~~
7-9 ~~Education~~] or a school district at which individual assessment
7-10 instruments or assessment instrument items are discussed or adopted
7-11 are not open to the public under Chapter 551, Government Code, and
7-12 the assessment instruments or assessment instrument items are
7-13 confidential.

7-14 SECTION 15. Sections 39.032(c-1) and (e), Education Code,
7-15 are amended to read as follows:

7-16 (c-1) The standardization norms computed under Subsection
7-17 (c) shall be:

7-18 (1) based on a national probability sample that meets
7-19 accepted standards for educational and psychological testing; and

7-20 (2) updated at least every eight years using proven
7-21 psychometric procedures approved by the agency [~~State Board of~~
7-22 ~~Education~~].

7-23 (e) The agency [~~State Board of Education~~] shall adopt rules
7-24 for the implementation of this section and for the maintenance of
7-25 the security of the contents of all assessment instruments.

7-26 SECTION 16. Section 39.054(b-1), Education Code, is
7-27 transferred to Section 39.052, Education Code, redesignated as
7-28 Section 39.052(b-1), Education Code, and amended to read as
7-29 follows:

7-30 (b-1) Consideration of the effectiveness of district
7-31 programs under Subsection (b)(2)(B) [~~Section 39.052(b)(2)(B)~~] or
7-32 (C):

7-33 (1) must:

7-34 (A) be based on data collected through the Public
7-35 Education Information Management System (PEIMS) for purposes of
7-36 accountability under this chapter; and

7-37 (B) include the results of assessments required
7-38 under Section 39.023; and

7-39 (2) may be based on the results of a special
7-40 investigation conducted under Section 39.003.

7-41 SECTION 17. Section 39.053, Education Code, is amended by
7-42 amending Subsections (a), (c), and (f) and adding Subsections
7-43 (c-4), (f-1), (f-2), (f-3), and (f-4) to read as follows:

7-44 (a) The commissioner shall adopt a set of indicators of the
7-45 quality of learning and achievement, including the indicators under
7-46 Subsection (c). The commissioner periodically shall review the
7-47 indicators for the consideration of appropriate revisions and may,
7-48 if the commissioner determines an indicator otherwise required
7-49 under this subchapter is not valid or reliable, exclude the
7-50 indicator from the set of indicators adopted under this section.

7-51 (c) School districts and campuses must be evaluated based on
7-52 three domains of indicators of achievement adopted under this
7-53 section that include:

7-54 (1) in the student achievement domain, indicators of
7-55 student achievement that must include:

7-56 (A) for evaluating the performance of districts
7-57 and campuses generally:

7-58 (i) an indicator that accounts for the
7-59 results of assessment instruments required under Sections
7-60 39.023(a), (c), and (l), as applicable for the district and campus,
7-61 including the results of assessment instruments required for
7-62 graduation retaken by a student, aggregated across grade levels by
7-63 subject area, including:

7-64 (a) for the performance standard
7-65 determined by the commissioner under Section 39.0241(a), the
7-66 percentage of students who performed satisfactorily on the
7-67 assessment instruments, aggregated across grade levels by subject
7-68 area; and

7-69 (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 area; and

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

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

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

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

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

(iv) students who demonstrate military readiness:

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

(b) by achieving a passing score set by the commissioner on the Armed Services Vocational Aptitude Battery Test and successfully completing a Junior Reserve Officer Training Corps program;

(v) students who earn industry certifications;

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

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

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

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

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

(xi) students who successfully completed a 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) based on the strength of the indicator's correlation with successful outcomes; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) if applicable, the number of consecutive school

11-1 years of unacceptable performance ratings for each district and
 11-2 campus.

11-3 (a-4) Notwithstanding any other law and except as provided
 11-4 by Subsection (a-6), the commissioner may assign a school district
 11-5 or campus an overall performance rating of "Not Rated" if the
 11-6 commissioner determines that the assignment of a performance rating
 11-7 of A, B, C, D, or F would be inappropriate because:

11-8 (1) the district or campus is located in an area that
 11-9 is subject to a declaration of a state of disaster under Chapter
 11-10 418, Government Code, and due to the disaster, performance
 11-11 indicators for the district or campus are difficult to measure or
 11-12 evaluate and would not accurately reflect quality of learning and
 11-13 achievement for the district or campus;

11-14 (2) the district or campus has experienced breaches or
 11-15 other failures in data integrity to the extent that accurate
 11-16 analysis of data regarding performance indicators is not possible;

11-17 (3) the number of students enrolled in the district or
 11-18 campus is insufficient to accurately evaluate the performance of
 11-19 the district or campus; or

11-20 (4) for other reasons outside the control of the
 11-21 district or campus, the performance indicators would not accurately
 11-22 reflect quality of learning and achievement for the district or
 11-23 campus.

11-24 (a-5) Notwithstanding any other law, an overall performance
 11-25 rating of "Not Rated" is not included in calculating consecutive
 11-26 school years of unacceptable performance ratings and is not
 11-27 considered a break in consecutive school years of unacceptable
 11-28 performance ratings for purposes of any provision of this code. Any
 11-29 interventions or sanctions to which a school district or campus is
 11-30 subject under Chapter 39A shall continue during a period in which
 11-31 the district or campus is assigned an overall performance rating of
 11-32 "Not Rated."

11-33 (a-6) The commissioner may not assign an overall
 11-34 performance rating of "Not Rated" to all school districts or all
 11-35 campuses on a statewide basis.

11-36 (a-7) If the agency makes changes to the assessment system
 11-37 under Section 39.022 for assessment instruments administered under
 11-38 this subchapter that require new standards for issuing performance
 11-39 ratings under this section, the agency must conduct a performance
 11-40 comparison analysis between the system as changed and the preceding
 11-41 system to establish roughly comparable standards for issuing
 11-42 performance ratings. Failure to conduct a performance comparison
 11-43 analysis as required under this subsection does not prevent the
 11-44 assignment of performance ratings under this section and may not be
 11-45 the basis of a challenge to a performance rating assigned under this
 11-46 section.

11-47 (b) For purposes of assigning school districts and campuses
 11-48 an overall and a domain performance rating under Subsection (a),
 11-49 the commissioner shall, to the extent practicable, ensure that the
 11-50 method used to evaluate performance is implemented in a manner that
 11-51 provides the mathematical possibility that all districts and
 11-52 campuses receive an A rating.

11-53 (c) The commissioner shall make the information under
 11-54 Subsection (a-3) available as soon as reasonably possible in years
 11-55 in which the standards are modified or recalibrated or in which a
 11-56 new assessment instrument is offered.

11-57 (d) Failure to assign a performance rating to a school
 11-58 district or campus before the deadline provided by Subsection (a-3)
 11-59 does not invalidate the performance rating assigned to the district
 11-60 or campus or any resulting intervention or sanction imposed on the
 11-61 district or campus.

11-62 SECTION 20. Section 39.0541, Education Code, is amended to
 11-63 read as follows:

11-64 Sec. 39.0541. ADOPTION OF INDICATORS AND STANDARDS. The
 11-65 commissioner may adopt indicators and standards under this
 11-66 subchapter at any time [~~during a school year~~] before issuing the
 11-67 evaluation of a school district or campus.

11-68 SECTION 21. Section 39.0542, Education Code, is amended by
 11-69 amending Subsection (a) and adding Subsection (d) to read as

12-1 follows:

12-2 (a) ~~The [Each school year, the]~~ commissioner shall provide
12-3 each school district a document in a simple, accessible format that
12-4 explains the accountability performance measures, methods, and
12-5 procedures that will be applied ~~[for that school year]~~ in assigning
12-6 each school district and campus a performance rating under Section
12-7 39.054.

12-8 (d) Failure to provide the document described by Subsection
12-9 (a) does not prevent the assignment of performance ratings under
12-10 Section 39.054 and may not be the basis of a challenge to a
12-11 performance rating assigned under that section.

12-12 SECTION 22. Section 39.151(e), Education Code, is amended
12-13 to read as follows:

12-14 (e) A school district or open-enrollment charter school may
12-15 not challenge on any basis, including a lack of commissioner or
12-16 agency authority, an agency decision relating to an academic or
12-17 financial accountability rating under this chapter, including a
12-18 decision relating to a determination of consecutive school years of
12-19 unacceptable performance ratings, in another proceeding unless
12-20 [if] the district or school has exhausted the district's or school's
12-21 remedies [had an opportunity to challenge the decision] under this
12-22 section.

12-23 SECTION 23. Section 39.201(a), Education Code, is amended
12-24 to read as follows:

12-25 (a) ~~The [Not later than August 8 of each year, the]~~
12-26 commissioner shall award distinction designations for outstanding
12-27 performance as provided by this subchapter concurrently with the
12-28 assignment of performance ratings under Section 39.054. A
12-29 distinction designation awarded to a district or campus under this
12-30 subchapter shall be referenced directly in connection with the
12-31 performance rating assigned to the district or campus and made
12-32 publicly available together with the performance ratings as
12-33 provided by rules adopted under Section 39.054 ~~[39.054(a)]~~.

12-34 SECTION 24. Subchapter H, Chapter 39, Education Code, is
12-35 amended by adding Section 39.231 to read as follows:

12-36 Sec. 39.231. LOCAL ACCOUNTABILITY GRANT PROGRAM. (a) From
12-37 money appropriated or otherwise available for the purpose, the
12-38 agency shall establish a grant program with capacity to assist at
12-39 least one school district per education service center region in
12-40 developing a local accountability system that complies with the
12-41 requirements of Section 39.0544.

12-42 (b) The commissioner shall adopt rules to implement this
12-43 section.

12-44 SECTION 25. Section 39A.001, Education Code, is amended to
12-45 read as follows:

12-46 Sec. 39A.001. GROUNDS FOR COMMISSIONER ACTION. The
12-47 commissioner shall take any of the actions authorized by this
12-48 subchapter to the extent the commissioner determines necessary if:

12-49 (1) a school district does not satisfy:
12-50 (A) the accreditation criteria under Section
12-51 39.052;

12-52 (B) the academic performance standards under
12-53 Section 39.053 or 39.054; or

12-54 (C) any financial accountability standard as
12-55 determined by commissioner rule; ~~[or]~~

12-56 (2) the commissioner considers the action to be
12-57 appropriate on the basis of a special investigation under Section
12-58 39.003; or

12-59 (3) a school district initiates or maintains an action
12-60 or proceeding against the state or an agency or officer of the
12-61 state.

12-62 SECTION 26. Subchapter A, Chapter 39A, Education Code, is
12-63 amended by adding Section 39A.008 to read as follows:

12-64 Sec. 39A.008. INTERVENTION RELATED TO SCHOOL DISTRICT OR
12-65 OPEN-ENROLLMENT CHARTER SCHOOL ACTION OR PROCEEDING AGAINST STATE.

12-66 (a) This section applies to a school district or open-enrollment
12-67 charter school subject to commissioner action under Section
12-68 39A.001(3).

12-69 (b) The commissioner shall appoint a conservator to a school

district or open-enrollment charter school to which this section applies.

(c) The conservator appointed under Subsection (b) shall require the school district or open-enrollment charter school to demonstrate, by a deadline established by the conservator, that the district or school is in compliance with Sections 45.105(c-1) and 45.1051. If the conservator determines that the district or school is not in compliance with those sections, the conservator shall order the district or school to, as applicable:

(1) withdraw from the action or proceeding; or
(2) take the necessary actions to come into compliance with Section 45.1051.

(d) If a school district or open-enrollment charter school fails to comply with an order by the conservator by the deadline established by the conservator, the commissioner may:

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

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

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

SECTION 27. Subchapter 2, Chapter 39A, Education Code, is amended by adding Sections 39A.908 and 39A.909 to read as follows:

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

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

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

(2) as applicable, impose any appropriate interventions or sanctions authorized under this chapter based on the ratings assigned under Subdivision (1).

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

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

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

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

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

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

(f) The commissioner shall impose an intervention described by Section 12.115(c), 39A.004, or 39A.111, as applicable, on a school district, open-enrollment charter school, or district or school campus if the district, school, or campus would have been subject to commissioner action under the applicable section based

on the performance rating of the district, school, or campus for a school year for which the agency was enjoined from assigning performance ratings, regardless of the performance of the district, school, or campus in a subsequent school year.

(g) The commissioner shall revoke a charter holder's charter for an open-enrollment charter school for which the charter holder received a charter renewal based on the absence of a performance rating for a school year for which the agency was enjoined from assigning a performance rating if, after the assignment of performance ratings for that year, the charter would not have been renewed under Section 12.1141(d), regardless of the performance of the school in a subsequent school year.

Sec. 39A.909. INTERVENTIONS OR SANCTIONS RELATED TO 2022-2023 OR 2023-2024 SCHOOL YEAR PERFORMANCE RATINGS. (a) The commissioner shall appoint a board of managers to govern a school district or open-enrollment charter school as provided by Section 39A.202 if the district or school:

(1) brought or joined an action or proceeding to prevent the implementation of the public school accountability system under Chapter 39 for the 2022-2023 or 2023-2024 school year; and

(2) includes a campus that, based on the campus's performance rating for the school year in which the district or school brought or joined the action or proceeding described by Subdivision (1), would have been subject to commissioner action under Section 39A.111.

(b) Notwithstanding any other law, the commissioner shall impose an intervention described by Section 39A.107(c) on a school district or open-enrollment charter school if the district or school:

(1) brought or joined an action or proceeding to prevent the implementation of the public school accountability system under Chapter 39 for the 2022-2023 and 2023-2024 school years; and

(2) includes a campus that, based on the campus's performance rating for the school year in which the district or school brought or joined the action or proceeding described by Subdivision (1), would have constituted the second, third, or fourth consecutive year of unacceptable performance.

(c) The commissioner shall impose an intervention described by Section 12.115(c), 39A.004, or 39A.111, as applicable, on a school district, open-enrollment charter school, or district or school campus if the district, school, or campus would have been subject to commissioner action under the applicable section based on the performance rating of the district, school, or campus for the 2022-2023 or 2023-2024 school year, regardless of the performance of the district, school, or campus in a subsequent school year.

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

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

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

SECTION 29. Subchapter E, Chapter 45, Education Code, is amended by adding Section 45.1051 to read as follows:

Sec. 45.1051. LIMITATION ON ATTORNEY PAYMENTS FOR CERTAIN ACTIONS. (a) If a school district or open-enrollment charter school brings an action against the agency, the State Board of Education, or the State Board for Educator Certification or an agent or officer of those entities that alleges ultra vires conduct by the entity or an agent or officer of the entity, the district or school must deposit all payments relating to the action made to the district's or school's attorney in an escrow account. The district or school may use money deposited in the escrow account to pay the district's or school's attorney only:

(1) after:

(A) a final judgment is rendered; and

(B) all appeals are fully resolved; and

(2) if the district or school prevails in the action.

(b) A school district or open-enrollment charter school shall provide money deposited in an escrow account under this section that may not be paid to the district's or school's attorney under Subsection (a) after the rendering of a final judgment and the resolution of all appeals to the state for deposit in the foundation school fund.

(c) This section may not be interpreted to authorize an action not otherwise authorized by law.

SECTION 30. 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 31. The heading to Section 312.003, Labor Code, is amended to read as follows:

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

SECTION 32. 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), Education Code.

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

(1) the associated career cluster;

(2) the awarding entity;

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

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

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

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

(d) The advisory council shall establish a process for

developing the inventory, including the criteria for the inclusion of a certification [~~credential or certificate~~] in the inventory.

SECTION 33. (a) Section 15, Chapter 925 (S.B. 1566), Acts of the 85th Legislature, Regular Session, 2017, which amended Section 39.102(a), Education Code, is repealed.

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

(1) Section 33.0812; and

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

SECTION 34. A rule of the State Board of Education under Sections 39.022, 39.029, and 39.032(e), Education Code, that is in effect on the effective date of this Act remains in effect until changed by the commissioner of education in accordance with those sections as amended by this Act.

SECTION 35. The changes in law made by Sections 39.023(a-11), 39.053(a), 39.054, 39.0541, and 39.0542, Education Code, as amended by this Act, apply to an action or determination related to public school accountability and accountability ratings beginning with the 2022-2023 school year, regardless of whether the action or determination occurred before, on, or after the effective date of this Act.

SECTION 36. Section 39.023(o-1), Education Code, as added by this Act, applies beginning with the 2027-2028 school year.

SECTION 37. The changes in law made by Section 39.053, Education Code, as amended by this Act, and Section 39.0531, Education Code, as added by this Act, apply to accountability ratings beginning with the 2027-2028 school year.

SECTION 38. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2025.

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