

BILL ANALYSIS

Senate Research Center

S.B. 1031
By: Shapiro et al.
Education
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

While improving the educational attainment of students, the cumulative Texas Assessment of Knowledge and Skills (TAKS) testing regime has had unintended consequences. Students are provided with a single avenue to success and may not achieve the level of college readiness they are truly capable of because TAKS tests are generic and shallow in scope. Many teachers do not focus on the richness of the curriculum for a particular subject, instead spending valuable time preparing students for these tests because they are evaluated on their students' performance on the tests.

S.B. 1031 phases out the TAKS testing regime at the high school level and replaces it with end-of-course exams in the four core subject areas—English Language Arts, Mathematics, Science, and Social Studies. These assessments are course-specific, which should influence teachers and students to focus on the subject matter rather than test preparation. Performance on these assessments will continue to be used to set accountability standards for schools and students will be required to meet graduation requirements through a cumulative score achieved across all subject areas. The bill also requires assessments to be administered to diagnose a student's level of college readiness at the eighth and tenth grade levels so that any deficiencies can be identified and addressed prior to a student's senior year. It also authorizes students to take the college entrance exam of their choice, at the state's expense, in order to promote a college-going culture.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 9 (Section 39.0233, Education Code), SECTION 10 (Section 39.025, Education Code), SECTION 12 (Section 39.0304, Education Code), and SECTION 14 (Section 39.036, Education Code) of this bill.

Rulemaking authority previously granted to the State Board of Education is modified in SECTION 8 (Section 39.023, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 18.006(b), Education Code, to require an accountability system under this section to include a consideration of student performance on the end-of-course assessment instruments, rather than the secondary exit-level assessment instruments.

SECTION 2. Amends Section 21.006(b), Education Code, to require the superintendent or director of a school district, regional education service center, or shared services arrangement to notify the State Board for Educator Certification (educator board) of reasonable cause to believe that an educator engaged in conduct that violated the assessment instrument security procedures established under Section 39.0301, in addition to other notifications.

SECTION 3. Amends Section 25.005(b), Education Code, to make a conforming change.

SECTION 4. Amends Section 29.081(b), Education Code, to require each district to provide accelerated instruction to students who have taken and failed to perform satisfactorily on the end-of-course assessment instruments (assessment instruments) under Section 39.023(c), rather than secondary exit-level assessment instruments.

SECTION 5. Reenacts and amends Section 29.087(f), Education Code, as amended by Chapters 283 and 373, Acts of the 78th Legislature, Regular Session, 2003, to make conforming changes.

SECTION 6. Amends Section 30.021(e), Education Code, to exclude the satisfactory performance of a student under Section 39.025, rather than on the exit-level assessment instrument, from being included in the academic requirements that make a student eligible to be served by a program set forth in this subsection.

SECTION 7. Amends Chapter 39, Education Code, by adding Subchapter A, as follows:

SUBCHAPTER A. COMPREHENSIVE REVIEW OF PUBLIC SCHOOL
ACCOUNTABILITY SYSTEM

Sec. 39.001. SELECT COMMITTEE ON PUBLIC SCHOOL ACCOUNTABILITY. (a) Establishes the Select Committee on Public School Accountability (committee) to conduct a comprehensive review of the public school accountability system (system).

(b) Provides the composition of the committee and appointment of committee members.

(c) Requires the governor, lieutenant governor, and speaker of the house of representatives to make appointments required by Subsection (b) in a timely fashion to permit the committee to comply with Section 39.002(a).

Sec. 39.002. COMMITTEE MEETINGS. (a) Requires the committee to hold an organizational meeting not later than October 1, 2007.

(b) Provides that the presiding officers described by Section 39.001(b)(1) serve as co-chairs of the committee.

(c) Requires committee meetings to be held at the call of the co-chairs.

Sec. 39.003. COMPENSATION AND REIMBURSEMENT. (a) Entitles a member of the committee to reimbursement for actual and necessary expenses incurred in performing committee duties.

(b) Entitles a legislative member of the committee to reimbursement from the appropriate fund of the house of the legislature in which the member serves.

(c) Entitles a member other than a legislative member to reimbursement from funds appropriated to the committee.

Sec. 39.004. COMMITTEE STAFF. Requires staff members of the standing committees described by Section 39.001(b)(1) to serve as the staff of the committee.

Sec. 39.005. OBJECTIVES OF STUDY. (a) Requires the committee to conduct a comprehensive review of the system. Requires the committee, in conducting its review, to study the mission, organizational structure, design, processes, and practices of similar systems in other states and the requirements established by federal law.

(b) Requires a review under this section to include a thorough study of certain elements and methods related to the system.

(c) Requires the committee to conduct public hearings throughout the state and solicit testimony about the system from parents of public school children and other interested persons. Requires at least one public hearing to be held at a public school during a time that public school students are able to attend the hearing.

(d) Requires the commissioner of education (commissioner) to ensure that the committee has access to any documentation and agency personnel the committee requests.

(e) Requires the Legislative Budget Board, comptroller of public accounts, state auditor, and any other state agency, official, or personnel to cooperate with the committee in carrying out its duties under this subchapter.

(f) Authorizes the committee to coordinate the study under this subchapter with any other legislative study, as appropriate.

Sec. 39.006. REPORT. (a) Requires the committee to provide a report not later than December 1, 2008, that states the findings of the study conducted under this subchapter and includes any recommendations for statutory changes.

(b) Requires the report to be approved by a majority of the committee members. Authorizes a member who disagrees with any part of the report to attach a dissenting statement to the report.

Sec. 39.007. EXPIRATION. Provides that this subchapter expires January 13, 2009.

SECTION 8. Amends Section 39.023, Education Code, by amending Subsections (a), (c) and (e) and adding Subsections (c-1), (c-2), (c-3), (c-4), (c-5), and (c-6), as follows:

(a) Changes the grade levels of the assessments set forth in this subsection for which the Texas Education Agency (TEA) is required to adopt or develop end-of-course assessment instruments.

(c) Sets forth the courses for which TEA is required to develop assessment instruments. Requires a school district to comply with State Board of Education (SBOE) rules regarding the administration of the assessment instruments listed in this subsection and to adopt a policy requiring a student's performance on such instruments to account for 15 percent of the student's final grade in the course. Requires certain assessment instruments to be administered with the aid of technology. Provides that if a student retakes an instrument for a course listed in this subsection, as provided by Section 39.025, a school district is not required to use the student's performance on the subsequent administration or administrations of the instrument to determine the student's final grade for the course. Requires SBOE to adopt a schedule for the administration of end-of-course assessment instruments that complies with the requirements of Subsection (c-3). Deletes the previous requirements for each individual subject instrument and an obsolete exemption from the requirements of Section 51.306 (Repealed) for students who perform at or above a level established by the Texas Higher Education Coordinating Board (THECB). Deletes existing text requiring each student who did not perform satisfactorily on any secondary exit-level assessment instrument when initially tested to be given multiple opportunities to retake that instrument and deletes existing text exempting students who perform at or above a level established by THECB from the requirements of Section 51.306. Makes conforming changes.

(c-1) Requires TEA to develop any assessment instrument required under this section in a manner allowing for the measurement of annual improvement in student achievement as required by Sections 39.034(c) and (d).

(c-2) Authorizes TEA to adopt assessment instruments for courses not listed in Subsection (c). Provides that a student's performance on instruments adopted under this subsection is not subject to the requirements of Subsection (c) or Section 39.025.

(c-3) Requires SBOE, in adopting a schedule for the administration of assessment instruments under this section, to require the instruments to be administered as set forth in this subsection.

(c-4) Requires TEA, to the extent practicable, to ensure that each end-of-course assessment instrument adopted under Subsection (c) is developed in a manner that measures a student's performance under the college readiness standards established under Section 28.008 and validated by national postsecondary education experts for college readiness content and performance standards.

(c-5) Requires a student's performance on an end-of-course assessment instrument required under Subsection (c) to be included in the student's academic achievement record.

(c-6) Requires TEA, in adopting an end-of-course assessment instrument under this section, to consider the use of an existing assessment instrument that is currently available only if the assessment instrument is aligned with the essential knowledge and skills of the subject being assessed and allow for the measurement of annual improvement in student achievement as provided by Subsection (c-1).

(e) Requires TEA, every third year and under the rules adopted by SBOE, to release the questions and answer keys to each assessment instrument as set forth in this subsection.

SECTION 9. Amends Subchapter B, Chapter 39, Education Code, by adding Sections 39.0233 and 39.0234, as follows:

Sec. 39.0233. SPECIAL-PURPOSE QUESTIONS INCLUDED IN END-OF-COURSE ASSESSMENT INSTRUMENTS. (a) Requires TEA, in coordination with THECB, to adopt a series of questions to be included in an assessment instrument administered under Section 39.023(c) to be used for purposes of Section 51.3062 (Success Initiative). Requires the questions adopted under this subsection to be developed in a manner consistent with any college readiness standards adopted under Sections 39.113 (Recognition of High School Completion and Success and College Readiness Programs) and 51.3062.

(b) Requires TEA, in addition to the questions adopted under Subsection (a), to adopt a series of questions to be included in an end-of-course assessment instrument administered under Section 39.023(c) to be used for purposes of identifying students who are likely to succeed in an advanced high school course. Requires a school district to notify a student who performs at a high level on the questions adopted under this subsection and the student's parent or guardian of the student's performance and potential to succeed in an advanced high school course. Prohibits a school district from requiring a student to perform at a particular level on the questions adopted under this subsection in order to be eligible to enroll in an advanced high school course.

(c) Requires SBOE to establish a level of performance on the questions adopted under this section that indicates a student's college readiness. Requires a student's performance on the questions adopted under this section to be evaluated separately from the student's performance on the remainder of the assessment instrument. Prohibits a student's performance on a question adopted under this section from being used to determine the student's performance on the assessment instrument for purposes of Section 39.023 or 39.025. Requires the commissioner to adopt rules concerning the reporting of a student's performance on the questions adopted under this section.

(d) Requires the questions adopted under this section to be administered in a separate section of the end-of-course assessment instrument in which the questions are included.

Sec. 39.0234. ADMINISTRATION OF ASSESSMENT INSTRUMENTS BY COMPUTER. (a) Requires TEA to ensure that instruments required under Section 39.023 are capable of being administered by computer.

(b) Requires each school district, by September 1, 2008, to provide TEA with data regarding the ability of the district to administer the required assessment instruments by computer. Requires TEA to compile the data into a report recommending a plan and timeline for enabling each district in this state to administer the instruments by computer and deliver it to each member of the legislature not later than December 1, 2008. Provides that this subsection expires June 1, 2009.

SECTION 10. Amends Section 39.025, Education Code, as follows:

Sec. 39.025. New heading: **SECONDARY-LEVEL PERFORMANCE REQUIRED.** (a) Requires the commissioner to adopt rules requiring a student participating in the recommended or advanced high school program to be administered each assessment instrument listed in Section 39.023(c) and requiring a student participating in the minimum high school program to be administered such assessment instruments only for courses the student is enrolled in and for which an instrument is administered. Sets forth the required cumulative score and method for determining that score in each subject in the foundation curriculum under Section 28.002(a)(1). Requires a student to achieve a score of at least 60 on an end-of-course assessment instrument for the score to count towards the student's cumulative score. Prohibits a student from receiving a diploma until the student has performed satisfactorily on the assessment instruments in the manner provided under this subsection, rather than the secondary exit-level instruments for specified subjects.

(a-1) Requires the commissioner by rule to determine a method by which a student's satisfactory performance on an advanced placement test, international baccalaureate examination, a Scholastic Assessment Test (SAT) Subject Test, or another assessment instrument determined by the commissioner to be at least as rigorous as an assessment instrument adopted under Section 39.023(c) may be used as a factor in determining whether the student satisfies the requirements of Subsection (a), including its cumulative score requirement.

(b) Makes conforming changes.

(b-1) Requires a school district to provide each student who fails to achieve a score of at least 70 on an end-of-course assessment instrument with accelerated instruction in the subject assessed by the assessment instrument.

(b-2) Requires a school district to require a student who is unlikely to achieve the cumulative score requirements for one or more subjects prescribed by Subsection (a) for receiving a high school diploma to enroll in a corresponding content-area college preparatory course for which an end-of-course assessment instrument has been adopted, if available. Requires a student who enrolls in a college preparatory course described by this subsection to be administered an end-of-course assessment instrument for the course, scored on a scale of 40. Authorizes a student to use the student's score on the instrument for the college preparatory course towards satisfying the cumulative score requirements prescribed by Subsection (a).

(c) Makes conforming changes.

(d) Makes no change to this subsection.

(e) Makes a conforming change.

(f) Requires the commissioner by rule to adopt a transition plan to implement the amendments made by S.B No. 1031, Acts of the 80th Legislature, Regular Session, 2007, to this section and Sections 39.023(a) and (c) and 39.051(b)(5). Requires the rules to provide for the instruments adopted under Section 39.023(c) to be administered beginning with students entering the ninth grade during the

2011-2012 school year. Authorizes and requires certain actions set forth in this subsection to be taken during the period of transition to the usage of instruments.

(g) Requires rules adopted under Subsection (f) to require each student subject to the requirements of Subsection (a) to be entitled to notice of the specific requirements applicable to the student. Requires such notice to be provided not later than the date the student enters the ninth grade. Provides that Subsection (f) and this subsection expire September 1, 2015.

SECTION 11. Amends Subchapter B, Chapter 39, Education B Code, by adding Sections 39.0261 and 39.0262, as follows:

Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) Sets forth certain requirements of the school district in administering to its students college preparation and assessment instruments, in addition to the assessment instruments otherwise authorized or required by this subchapter (Assessment of Academic Skills).

(b) Requires TEA to select and approve vendors of the specific assessment instruments administered under this section and to pay all fees associated with the administration of such assessment instruments from funds allotted from the Foundation School Program. Requires the commissioner to reduce the total amount of state funds allotted to each district from any source in the manner described for a reduction in allotments under Section 42.253.

(c) Requires TEA to ensure that vendors are not paid under Subsection (b) for the administration of an assessment instrument to a student to whom the assessment instrument is not actually administered. Authorizes TEA to comply with this subsection by any reasonable means, including the creation of a refund system under which a vendor returns any payments for a student who registered for the assessment instrument but did not appear for its administration.

(d) Requires a vendor that administers an assessment instrument under this section to report the results in the college instrument to TEA. Requires TEA to include a student's results on the assessment instrument in the electronic student records system established under Section 7.010 and to ensure that the student and the student's parent receive a report of such results.

(e) Provides that Subsection (a)(3) (regarding the taking, at state cost, of a college instrument as part of the undergraduate admissions process) does not prohibit a high school student in the spring of 11th grade or during the 12th grade from selecting and taking, at the student's own expense, one of the assessment instruments as part of their undergraduate admissions process more than once.

(f) Provides that the provisions of this section apply only if the legislature appropriates funds for purposes of this section.

Sec. 39.0262. ADMINISTRATION OF DISTRICT-REQUIRED ASSESSMENT INSTRUMENTS IN CERTAIN SUBJECT AREAS. (a) Prohibits a school district from administering district-required assessment instruments to any student on more than 10 percent of the instructional days in any school year.

(b) Provides that the prohibition prescribed by this section does not apply to the administration of a college preparation assessment instrument, an advanced placement test, an international baccalaureate examination, or an assessment instrument administered under Section 39.023.

SECTION 12. Amends Subchapter B, Chapter 39, Education Code, by adding Sections 39.0301, 39.0302, 39.0303, and 39.0304, as follows:

Sec. 39.0301. SECURITY IN ADMINISTRATION OF ASSESSMENT INSTRUMENTS. (a) Requires the commissioner to establish procedures for the

administration of assessment instruments adopted or developed under Section 39.023, including security procedures, and authorizes the commissioner to establish record retention requirements for school district records related to the security of assessment instruments.

(b) Authorizes the commissioner to develop and implement statistical methods and standards for identifying violations of procedures established under Subsection (a) ensuring the security of such assessment instruments. Sets forth indicators the commissioner is authorized to include in developing such methods and standards.

(c) Authorizes the commissioner to establish advisory committees to advise the commissioner and TEA regarding the monitoring of assessment practices and the use of statistical methods and standards under Subsection (b), including standards to be established by the commissioner for selecting school districts for investigation of potential assessment security violations under Subsection (e). Prohibits the commissioner from appointing a TEA employee to an advisory committee established under this subsection.

(d) Provides that any document created for the deliberation of an advisory committee established under Subsection (c) or any recommendation of such a committee is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code. Provides that the statistical methods and standards adopted under this section and the results of applying those methods are confidential and not subject to disclosure under Chapter 552, Government Code, except as provided by Subsection (e).

(e) Authorizes TEA to conduct an investigation of a school district for a potential violation of assessment instrument security in accordance with standards described in Subsection (c). Requires TEA, each year after completing all such investigations, to disclose the identity of the selected districts and the statistical methods and standards used to select the district.

(f) Authorizes the commissioner, at any time, to authorize the audit of a random sample of school districts to determine the compliance of the districts with the procedures established under Subsection (a). Provides that the identity of each school district selected for such audit is confidential and not subject to disclosure under Chapter 552, Government Code, except that TEA is required to disclose the identity of each district after the audit's completion.

(g) Authorizes the state auditor to conduct a risk-based audit of a school district at any time to ensure the security of assessment instruments administered under Section 39.023 in the district.

Sec. 39.0302. ISSUANCE OF SUBPOENAS. (a) Authorizes the commissioner, during an investigation or audit set forth in this subsection, to issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence located in this state.

(b) Authorizes a subpoena to be served personally or by certified mail.

(c) Authorizes the commissioner to file suit in a district court enforcing a subpoena if a person fails to comply with it. Requires the court to order the person to comply with the subpoena on the finding that good cause exists for its issuance. Authorizes the court to punish a person failing to obey the court order.

(d) Provides that all information and materials subpoenaed or compiled in connection with an investigation or audit described by Subsection (a) are confidential and not subject to disclosure under Chapter 552, Government Code, or to any person other than a person set forth in this subsection.

Sec. 39.0303. SECURE ASSESSMENT INSTRUMENTS; CRIMINAL PENALTY. (a) Provides that a person commits an offense if the person intentionally discloses the contents of any portion of a secure assessment instrument developed or administered under this subchapter, including the answer to an item in the assessment instrument, and such disclosure affects or is likely to affect the performance of one or more students on the assessment instrument.

(b) Provides that an offense under this subsection is a Class C misdemeanor.

Sec. 39.0304. TRAINING IN ASSESSMENT INSTRUMENT ADMINISTRATION.

(a) Authorizes the commissioner to require training for school district employees involved in the administration of the assessment instruments to ensure that each administration of assessment instruments under Section 39.023 is valid, reliable, and in compliance with the requirements of this subchapter.

(b) Authorizes the training under Subsection (a) to include a qualifying component to ensure that school district employees involved in the administration of assessment instruments under Section 39.023 possess the necessary skills and knowledge required to administer the assessment instruments.

(c) Authorizes the commissioner to adopt rules necessary to implement this section.

SECTION 13. Amends Section 39.034(d), Education Code, to make conforming changes.

SECTION 14. Amends Subchapter B, Chapter 39, Education Code, by adding Sections 39.035, 39.0351, and 39.036, as follows:

Sec. 39.035. LIMITATION ON FIELD TESTING OF ASSESSMENT INSTRUMENTS. (a) Authorizes TEA, subject to Subsection (b), to conduct field testing of questions for any assessment instrument administered under Section 39.023(a), (b), (c), (d), or (l) that is separate from the administration of the assessment instrument not more frequently than every other school year.

(b) Provides that Subsection (a) does not limit field testing necessary to develop new assessment instruments required under state or federal law.

(c) Requires TEA, before the beginning of each school year, to notify each school district regarding the required participation of the district in field testing activities during that school year.

Sec. 39.0351. FIELD TESTING STUDY. (a) Requires TEA to conduct a study of the sample size and sample procedures used in field testing of questions for assessment instruments administered under Section 39.023.

(b) Requires the study required by Subsection (a) to also examine the feasibility of conducting field testing that is separate from the administration of an assessment instrument in the fall of the school year.

(c) Requires TEA, not later than December 1, 2008, to submit a report regarding the results of the study to the legislature.

(d) Provides that this section expires January 1, 2009.

Sec. 39.036. VERTICAL SCALE FOR CERTAIN ASSESSMENT INSTRUMENTS.

(a) Requires TEA to develop a vertical scale for assessing student performance on assessment instruments administered under Sections 39.023(a)(1) and (2) in a manner that allows TEA to compare the performance of a student on the assessment instruments from one grade level to the next.

(b) Requires the commissioner to adopt rules necessary to implement this section.

(c) Requires TEA, not later than June 1, 2008, to develop a vertical scale as required by Subsection (a). Requires TEA to implement the vertical scale in the administration of assessment instruments under Sections 39.023(a)(1) and (2) beginning with the 2008-2009 school year. Provides that this subsection expires September 1, 2009.

SECTION 15. Amends Section 39.051(b), Education Code, to make conforming changes.

SECTION 16. Amends Section 39.075(a), Education Code, to require the commissioner to authorize special accreditation investigations to be conducted when extraordinary numbers of placements in disciplinary alternative education programs are determined and in response to an allegation regarding or statistical analysis indicating a possible assessment instrument security procedure violation under Section 39.0301, including for the purpose of investigating or auditing a district under that section, in addition to other conditions authorizing the conducting of such investigations. Makes conforming changes.

SECTION 17. Amends Section 51.3062(q), Education Code, to exempt a student from the requirements of this section who has achieved scores set by the board on the questions developed for end-of-course assessment instruments under Section 39.0233(a), rather than a set score on the previously-required exit-level assessment instrument under Section 39.023. Makes conforming and nonsubstantive changes.

SECTION 18. Repealer: Section 39.023(j), Education Code (requiring the commissioner to develop an end-of-course assessment instrument for Algebra I).

SECTION 19. Provides that a reference in the Education Code to an end-of-course assessment instrument administered under Section 39.023(c), Education Code, includes an exit-level assessment instrument administered under that section as provided by Section 39.025(f), Education Code, as added by this Act.

SECTION 20. Requires TEA to issue a request for proposals for the development of end-of-course assessment instruments required under Section 39.023(c), Education Code, as amended by this Act, on the expiration of any contract entered into before September 1, 2007, between TEA and a vendor for the development of said assessment instruments. Authorizes TEA to allow a vendor with whom TEA has contracted for the development of assessment instruments before September 1, 2007, to begin developing the instruments required under Section 39.023(c), Education Code, as amended by this Act, before the expiration of the contract.

SECTION 21. Requires the legislature to enact a system that is aligned with the provisions of this act not later than September 1, 2011.

SECTION 22. Provides that Section 39.035, Education Code, as added by this Act, applies beginning with the 2008-2009 school year.

SECTION 23. (a) Makes application of this Act prospective to the beginning of the 2007-2008 school year, except as otherwise provided by this Act.

(b) Authorizes the commissioner to conduct random audits as authorized under Section 39.0301(f), Education Code, as added by this Act, beginning with the 2007-2008 school year, and accreditation investigations as authorized under Section 39.075(a)(8), Education Code, as added by this Act, beginning with the 2008-2009 school year.

(c) Authorizes the commissioner, during the 2008-2009 school year, to use the statistical methods and standards established under Section 39.0301(b), Education Code, as added by this Act, on a pilot basis to test the accuracy and predictive validity of the methods and standards. Makes such methods and standards confidential and not subject to disclosure under Chapter 552, Government Code. Requires the commissioner to release the results of any investigation conducted on the basis of those methods on completion of the investigation, without releasing the methods themselves.

SECTION 24. Effective date: September 1, 2007.