

By: Raymond

H.B. No. 1825

A BILL TO BE ENTITLED

AN ACT

relating to assessment of public school students receiving special education services.

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

SECTION 1. Section 28.0211, Education Code, is amended by adding Subsection (p) to read as follows:

(p) This section does not apply to a student who participates in a district's special education program under Subchapter A, Chapter 29.

SECTION 2. Sections 39.023(a), (c), (d), (e), and (j), Education Code, are amended to read as follows:

(a) The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science. All students, except students assessed under Subsection ~~[(b) or]~~ (1) or exempted under Section 39.027, shall be assessed in:

(1) mathematics, annually in grades three through seven without the aid of technology and in grades eight through 11 with the aid of technology on any assessment instruments that include algebra;

(2) reading, annually in grades three through nine;

(3) writing, including spelling and grammar, in grades four and seven;

- 1           (4) English language arts, in grade 10;  
2           (5) social studies, in grades eight and 10;  
3           (6) science, in grades five, eight, and 10; and  
4           (7) any other subject and grade required by federal  
5 law.

6           (c) The agency shall also adopt secondary exit-level  
7 assessment instruments designed to be administered to students in  
8 grade 11 to assess essential knowledge and skills in mathematics,  
9 English language arts, social studies, and science. The  
10 mathematics section must include at least Algebra I and geometry  
11 with the aid of technology. The English language arts section must  
12 include at least English III and must include the assessment of  
13 essential knowledge and skills in writing. The social studies  
14 section must include early American and United States history. The  
15 science section must include at least biology and integrated  
16 chemistry and physics. The assessment instruments must be designed  
17 to assess a student's mastery of minimum skills necessary for high  
18 school graduation and readiness to enroll in an institution of  
19 higher education. ~~[If a student is in a special education program  
20 under Subchapter A, Chapter 29, the student's admission, review,  
21 and dismissal committee shall determine whether any allowable  
22 modification is necessary in administering to the student an  
23 assessment instrument required under this subsection or whether the  
24 student should be exempted under Section 39.027(a)(2).]~~ The State  
25 Board of Education shall administer the assessment instruments.  
26 The State Board of Education shall adopt a schedule for the  
27 administration of secondary exit-level assessment instruments.

1 Each student who did not perform satisfactorily on any secondary  
2 exit-level assessment instrument when initially tested shall be  
3 given multiple opportunities to retake that assessment instrument.  
4 A student who performs at or above a level established by the Texas  
5 Higher Education Coordinating Board on the secondary exit-level  
6 assessment instruments is exempt from the requirements of Section  
7 51.3062 [~~51.306~~].

8 (d) The commissioner may participate in multistate efforts  
9 to develop voluntary standardized end-of-course assessment  
10 instruments. The commissioner by rule may require a school  
11 district to administer an end-of-course assessment instrument  
12 developed through the multistate efforts. [~~The admission, review,  
13 and dismissal committee of a student in a special education program  
14 under Subchapter A, Chapter 29, shall determine whether any  
15 allowable modification is necessary in administering to the student  
16 an end-of-course assessment instrument or whether the student  
17 should be exempted under Section 39.027(a)(2).]~~]

18 (e) Under rules adopted by the State Board of Education,  
19 every other year, the agency shall release the questions and answer  
20 keys to each assessment instrument administered under Subsection  
21 (a), [~~(b)~~] (c), (d), or (l) after the last time the instrument is  
22 administered for that school year. To ensure a valid bank of  
23 questions for use each year, the agency is not required to release a  
24 question that is being field-tested and was not used to compute the  
25 student's score on the instrument. The agency shall also release,  
26 under board rule, each question that is no longer being  
27 field-tested and that was not used to compute a student's score.

1 (j) The commissioner shall develop a standardized  
2 end-of-course assessment instrument for Algebra I. The  
3 commissioner by rule may require a school district to administer an  
4 end-of-course assessment instrument in Algebra I. [~~The admission,  
5 review, and dismissal committee of a student in a special education  
6 program under Subchapter A, Chapter 29, shall determine whether any  
7 allowable modification is necessary in administering to the student  
8 an end-of-course assessment instrument or whether the student  
9 should be exempted under Section 39.027(a)(2).~~]

10 SECTION 3. Section 39.024(a), Education Code, is amended to  
11 read as follows:

12 (a) The [~~Except as otherwise provided by this subsection,  
13 the~~] State Board of Education shall determine the level of  
14 performance considered to be satisfactory on the assessment  
15 instruments. [~~The admission, review, and dismissal committee of a  
16 student being assessed under Section 39.023(b) shall determine the  
17 level of performance considered to be satisfactory on the  
18 assessment instruments administered to that student in accordance  
19 with criteria established by agency rule.~~]

20 SECTION 4. Section 39.027(a), Education Code, is amended to  
21 read as follows:

22 (a) A student may be exempted from the administration of an  
23 assessment instrument under:

24 (1) Section 39.023(a) [~~or (b)~~] if the student is  
25 eligible for a special education program under Section 29.003 [~~and  
26 the student's individualized education program does not include  
27 instruction in the essential knowledge and skills under Section~~]

1 ~~28.002 at any grade level];~~

2 (2) Section 39.023(c), ~~[or]~~ (d), or (j) if the student  
3 is eligible for a special education program under Section 29.003  
4 ~~[and:~~

5 ~~[(A) the student's individualized education~~  
6 ~~program does not include instruction in the essential knowledge and~~  
7 ~~skills under Section 28.002 at any grade level; or~~

8 ~~[(B) the assessment instrument, even with~~  
9 ~~allowable modifications, would not provide an appropriate measure~~  
10 ~~of the student's achievement as determined by the student's~~  
11 ~~admission, review, and dismissal committee];~~

12 (3) Section 39.023(a) or (l) for a period of up to one  
13 year after initial enrollment in a school in the United States if  
14 the student is of limited English proficiency, as defined by  
15 Section 29.052, and has not demonstrated proficiency in English as  
16 determined by the assessment system under Subsection (e); or

17 (4) Section 39.023(a) or (l) for a period of up to two  
18 years in addition to the exemption period authorized by Subdivision  
19 (3) if the student has received an exemption under Subdivision (3)  
20 and:

21 (A) is a recent unschooled immigrant; or

22 (B) is in a grade for which no assessment  
23 instrument in the primary language of the student is available.

24 SECTION 5. Section 39.051(b), Education Code, is amended to  
25 read as follows:

26 (b) Performance on the indicators adopted under this  
27 section shall be compared to state-established standards. The

1 degree of change from one school year to the next in performance on  
2 each indicator adopted under this section shall also be considered.  
3 The indicators must be based on information that is disaggregated  
4 by race, ethnicity, gender, and socioeconomic status and must  
5 include:

6 (1) the results of assessment instruments required  
7 under Sections 39.023(a), (c), and (l), aggregated by grade level  
8 and subject area;

9 (2) dropout rates, including dropout rates and  
10 district completion rates for grade levels 9 through 12, computed  
11 in accordance with standards and definitions adopted by the  
12 National Center for Education Statistics of the United States  
13 Department of Education;

14 (3) high school graduation rates, computed in  
15 accordance with standards and definitions adopted in compliance  
16 with the No Child Left Behind Act of 2001 (Pub. L. No. 107-110);

17 (4) student attendance rates;

18 (5) the percentage of graduating students who attain  
19 scores on the secondary exit-level assessment instruments required  
20 under Subchapter B that are equivalent to a passing score on the  
21 assessment instrument required under Section 51.3062;

22 (6) the percentage of graduating students who meet the  
23 course requirements established for the recommended high school  
24 program by State Board of Education rule;

25 (7) the results of the Scholastic Assessment Test  
26 (SAT), the American College Test (ACT), articulated postsecondary  
27 degree programs described by Section 61.852, and certified

1 workforce training programs described by Chapter 311, Labor Code;

2 (8) the percentage of students, aggregated by grade  
3 level, provided accelerated instruction under Section 28.0211(c),  
4 the results of assessments administered under that section, the  
5 percentage of students promoted through the grade placement  
6 committee process under Section 28.0211, the subject of the  
7 assessment instrument on which each student failed to perform  
8 satisfactorily, and the performance of those students in the school  
9 year following that promotion on the assessment instruments  
10 required under Section 39.023;

11 (9) for students who have failed to perform  
12 satisfactorily on an assessment instrument required under Section  
13 39.023(a) or (c), the numerical progress of those students grouped  
14 by percentage on subsequent assessment instruments required under  
15 those sections, aggregated by grade level and subject area;

16 (10) the percentage of students exempted, by exemption  
17 category, from the assessment program generally applicable under  
18 this chapter;

19 (11) the percentage of students of limited English  
20 proficiency exempted from the administration of an assessment  
21 instrument under Sections 39.027(a)(3) and (4);

22 ~~(12) [the percentage of students in a special  
23 education program under Subchapter A, Chapter 29, assessed through  
24 assessment instruments developed or adopted under Section  
25 39.023(b),~~

26 ~~[(13)]~~ the measure of progress toward preparation for  
27 postsecondary success; and

1           (13) [~~(14)~~] the measure of progress toward dual  
2 language proficiency under Section 39.034(b), for students of  
3 limited English proficiency, as defined by Section 29.052.

4           SECTION 6. Section 39.075(a), Education Code, is amended to  
5 read as follows:

6           (a) The commissioner shall authorize special accreditation  
7 investigations to be conducted:

8                 (1) when excessive numbers of absences of students  
9 eligible to be tested on state assessment instruments are  
10 determined;

11                (2) when excessive numbers of allowable exemptions  
12 from the required state assessment are determined;

13                (3) in response to complaints submitted to the agency  
14 with respect to alleged violations of civil rights or other  
15 requirements imposed on the state by federal law or court order;

16                (4) in response to established compliance reviews of  
17 the district's financial accounting practices and state and federal  
18 program requirements;

19                (5) when extraordinary numbers of student placements  
20 in alternative education programs, other than placements under  
21 Sections 37.006 and 37.007, are determined;

22                (6) in response to an allegation involving a conflict  
23 between members of the board of trustees or between the board and  
24 the district administration if it appears that the conflict  
25 involves a violation of a role or duty of the board members or the  
26 administration clearly defined by this code; or

27                (7) [~~when excessive numbers of students in special~~



1 ~~education programs under Subchapter A, Chapter 29, are assessed~~  
2 ~~through assessment instruments developed or adopted under Section~~  
3 ~~39.023(b), or~~

4 ~~(8)~~ as the commissioner otherwise determines  
5 necessary.

6 SECTION 7. Section 39.114(b), Education Code, is amended to  
7 read as follows:

8 (b) A school district may use funds allocated under Section  
9 42.2516(b)(3) on any instructional program in grades six through 12  
10 other than an athletic program if:

11 (1) the district is recognized as exceptional by the  
12 commissioner under the academic accountability indicator adopted  
13 under Section 39.051(b)(12) [~~39.051(b)(13)~~]; and

14 (2) the district's completion rates for grades nine  
15 through 12 meet or exceed completion rate standards required by the  
16 commissioner to achieve a rating of exemplary under Section 39.072.

17 SECTION 8. Sections 28.0211(i), 28.0213(e), 39.023(b),  
18 39.027(c), and 39.051(f), Education Code, are repealed.

19 SECTION 9. Not later than December 1, 2008, the Texas  
20 Education Agency shall submit to the legislature a report that:

21 (1) identifies the anticipated consequences of  
22 implementing the changes in law made by this Act regarding  
23 assessment of students receiving special education services,  
24 including any consequences arising from requirements imposed by  
25 federal law regarding assessment of those students; and

26 (2) specifies the amount, if any, of federal funds  
27 that would not be received as a result of implementing those changes

1 in law.

2 SECTION 10. (a) Except as provided by Subsection (b) of  
3 this section, this Act takes effect September 1, 2009.

4 (b) Section 9 of this Act takes effect September 1, 2008.