

By: West, Royce

S.B. No. 1016

A BILL TO BE ENTITLED

AN ACT

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relating to providing a method for assessing the annual improvement in achievement of public school students on certain assessment instruments.

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

SECTION 1. Section 28.006(j), Education Code, is amended to read as follows:

(j) No more than 15 percent of the funds certified by the commissioner under Subsection (i) may be spent on indirect costs. The commissioner shall evaluate the programs that fail to meet the standard of performance under Section 39.051(b)(10) [~~39.051(b)(8)~~] and may implement sanctions under Subchapter G, Chapter 39. The commissioner may audit the expenditures of funds appropriated for purposes of this section. The use of the funds appropriated for purposes of this section shall be verified as part of the district audit under Section 44.008.

SECTION 2. Section 39.022, Education Code, is amended to read as follows:

Sec. 39.022. ASSESSMENT PROGRAM. The State Board of Education by rule shall create and implement a statewide assessment program that is knowledge- and skills-based to ensure school accountability for student achievement and academic growth that achieves the goals provided under Section 4.002. After adopting rules under this section, the State Board of Education shall

1 consider the importance of maintaining stability in the statewide  
2 assessment program when adopting any subsequent modification of the  
3 rules.

4 SECTION 3. Section 39.023, Education Code, is amended by  
5 amending Subsections (l) and (n) and adding Subsection (o) to read  
6 as follows:

7 (l) The State Board of Education shall adopt rules for the  
8 administration of the assessment instruments adopted under  
9 Subsections [~~Subsection~~] (a) and (o) in Spanish to students in  
10 grades three through six who are of limited English proficiency, as  
11 defined by Section 29.052, whose primary language is Spanish, and  
12 who are not otherwise exempt from the administration of an  
13 assessment instrument under Section 39.027(a)(3) or (4). Each  
14 student of limited English proficiency whose primary language is  
15 Spanish, other than a student to whom Subsection (b) applies, may be  
16 assessed using assessment instruments in Spanish under this  
17 subsection for up to three years or assessment instruments in  
18 English under Subsection (a). The language proficiency assessment  
19 committee established under Section 29.063 shall determine which  
20 students are administered assessment instruments in Spanish under  
21 this subsection.

22 (n) This subsection applies only to a student who is  
23 determined to have dyslexia or a related disorder and who is an  
24 individual with a disability under 29 U.S.C. Section 705(20) and  
25 its subsequent amendments. The agency shall adopt or develop  
26 appropriate criterion-referenced assessment instruments designed  
27 to assess the ability of and to be administered to each student to

1 whom this subsection applies for whom the assessment instruments  
2 adopted under Subsections [~~Subsection~~] (a) and (o), even with  
3 allowable modifications, would not provide an appropriate measure  
4 of student achievement, as determined by the committee established  
5 by the board of trustees of the district to determine the placement  
6 of students with dyslexia or related disorders. The committee  
7 shall determine whether any allowable modification is necessary in  
8 administering to a student an assessment instrument required under  
9 this subsection. The assessment instruments required under this  
10 subsection shall be administered on the same schedule as the  
11 assessment instruments administered under Subsection (a) and, if  
12 applicable, Subsection (o).

13 (o) The agency shall adopt or develop appropriate  
14 criterion-referenced assessment instruments, separate from the  
15 assessment instruments adopted or developed under Subsection (a),  
16 designed to assess reading progress by tracking changes in a  
17 student's performance during the school year. A school district or  
18 open-enrollment charter school may administer an assessment  
19 instrument under this subsection. A campus that administers a  
20 reading assessment under this subsection must report the results to  
21 the agency.

22 SECTION 4. Sections 39.051(b), (c), and (d), Education  
23 Code, are amended to read as follows:

24 (b) Performance on the indicators adopted under this  
25 section shall be compared to state-established standards. The  
26 degree of change from one school year to the next in performance on  
27 each indicator adopted under this section shall also be considered.

1 The indicators must be based on information that is disaggregated  
2 by race, ethnicity, gender, and socioeconomic status and must  
3 include:

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

7 (2) annual improvement in student achievement, as  
8 measured under Section 39.034, aggregated by grade level and  
9 subject;

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

15 (4) [~~3~~] high school graduation rates, computed in  
16 accordance with standards and definitions adopted in compliance  
17 with the No Child Left Behind Act of 2001 (Pub. L. No. 107-110);

18 (5) [~~4~~] student attendance rates;

19 (6) [~~5~~] the percentage of graduating students who  
20 attain scores on the secondary exit-level assessment instruments  
21 required under Subchapter B that are equivalent to a passing score  
22 on the assessment instrument required under Section 51.3062;

23 (7) [~~6~~] the percentage of graduating students who  
24 meet the course requirements established for the recommended high  
25 school program by State Board of Education rule;

26 (8) if applicable, the results of assessment  
27 instruments administered under Section 39.023(o), aggregated by

1 grade level;

2           (9) [~~(7)~~] the results of the Scholastic Assessment  
3 Test (SAT), the American College Test (ACT), articulated  
4 postsecondary degree programs described by Section 61.852, and  
5 certified workforce training programs described by Chapter 311,  
6 Labor Code;

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

16           (11) [~~(9)~~] for students who have failed to perform  
17 satisfactorily on an assessment instrument required under Section  
18 39.023(a) or (c), the numerical progress of those students grouped  
19 by percentage on subsequent assessment instruments required under  
20 those sections, aggregated by grade level and subject area;

21           (12) [~~(10)~~] the percentage of students exempted, by  
22 exemption category, from the assessment program generally  
23 applicable under this chapter;

24           (13) [~~(11)~~] the percentage of students of limited  
25 English proficiency exempted from the administration of an  
26 assessment instrument under Sections 39.027(a)(3) and (4);

27           (14) [~~(12)~~] the percentage of students in a special

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

4 (15) [~~(13)~~] the measure of progress toward  
5 preparation for postsecondary success; and

6 (16) [~~(14)~~] the measure of progress toward dual  
7 language proficiency under Section 39.034(b), for students of  
8 limited English proficiency, as defined by Section 29.052.

9 (c) Performance on the indicators [~~indicator~~] under  
10 Subsections [~~Subsection~~] (b)(1) and (2) shall be compared to state  
11 standards, required improvement, and comparable improvement. The  
12 state standard shall be established by the commissioner. Required  
13 improvement is defined as the progress necessary for the campus or  
14 district to meet state standards and for its students to meet exit  
15 requirements as defined by the commissioner. Comparable  
16 improvement is derived by measuring campuses and districts against  
17 a profile developed from a total state student performance database  
18 which exhibits substantial equivalence to the characteristics of  
19 students served by the campus or district, including past academic  
20 performance, socioeconomic status, ethnicity, and limited English  
21 proficiency.

22 (d) Annually, the commissioner shall define exemplary,  
23 recognized, and unacceptable performance for each academic  
24 excellence indicator included under Subsections (b)(1) through (9)  
25 [~~(7)~~] and shall project the standards for each of those levels of  
26 performance for succeeding years. For the indicator under  
27 Subsection (b)(10) [~~(b)(8)~~], the commissioner shall define

1 exemplary, recognized, and unacceptable performance based on  
2 student performance for the period covering both the current and  
3 preceding academic years. In defining exemplary, recognized, and  
4 unacceptable performance for the indicators under Subsections  
5 (b)(3) [~~(b)(2)~~] and (4), the commissioner may not consider as a  
6 dropout or as a student who has failed to attend school a student  
7 whose failure to attend school results from:

8 (1) the student's expulsion under Section 37.007; and

9 (2) as applicable:

10 (A) adjudication as having engaged in delinquent  
11 conduct or conduct indicating a need for supervision, as defined by  
12 Section 51.03, Family Code; or

13 (B) conviction of and sentencing for an offense  
14 under the Penal Code.

15 SECTION 5. Section 39.052(b), Education Code, is amended to  
16 read as follows:

17 (b) The report card shall include the following  
18 information:

19 (1) where applicable, the academic excellence  
20 indicators adopted under Sections 39.051(b)(1) through (12)  
21 [~~(10)~~];

22 (2) average class size by grade level and subject;

23 (3) the administrative and instructional costs per  
24 student, computed in a manner consistent with Section 44.0071; and

25 (4) the district's instructional expenditures ratio  
26 and instructional employees ratio computed under Section 44.0071,  
27 and the statewide average of those ratios, as determined by the

1 commissioner.

2 SECTION 6. Sections 39.072(b) and (c), Education Code, are  
3 amended to read as follows:

4 (b) The academic excellence indicators adopted under  
5 Sections 39.051(b)(1) through (10) [~~(8)~~] and the district's current  
6 special education compliance status with the agency shall be the  
7 main considerations of the agency in the rating of the district  
8 under this section. Additional criteria in the rules may include  
9 consideration of:

10 (1) compliance with statutory requirements and  
11 requirements imposed by rule of the State Board of Education under  
12 specific statutory authority that relate to:

13 (A) reporting data through the Public Education  
14 Information Management System (PEIMS);

15 (B) the high school graduation requirements  
16 under Section 28.025; or

17 (C) an item listed in Sections  
18 7.056(e)(3)(C)-(I) that applies to the district;

19 (2) the effectiveness of the district's programs for  
20 special populations; and

21 (3) the effectiveness of the district's career and  
22 technology programs.

23 (c) The agency shall evaluate against state standards and  
24 shall, not later than August 1 of each year, report the performance  
25 of each campus in a district and each open-enrollment charter  
26 school on the basis of the campus's performance on the indicators  
27 adopted under Sections 39.051(b)(1) through (10) [~~(8)~~].



1 Consideration of the effectiveness of district programs under  
2 Subsection (b)(2) or (3) must be based on data collected through the  
3 Public Education Information Management System for purposes of  
4 accountability under this chapter and include the results of  
5 assessments required under Section 39.023.

6 SECTION 7. Section 39.0721(c), Education Code, is amended  
7 to read as follows:

8 (c) The performance standards on which a gold performance  
9 rating is based should include:

10 (1) student proficiency on:

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

13 (B) other measures of proficiency determined by  
14 the commissioner;

15 (2) student performance on one or more nationally  
16 recognized norm-referenced assessment instruments;

17 (3) improvement in student performance, including  
18 annual improvement in student achievement, as measured under  
19 Section 39.034;

20 (4) in the case of middle or junior high school  
21 campuses, student proficiency in mathematics, including algebra;  
22 and

23 (5) in the case of high school campuses:

24 (A) the extent to which graduating students are  
25 academically prepared to attend institutions of higher education;

26 (B) the percentage of students who take advanced  
27 placement tests and student performance on those tests; and

1 (C) the percentage of students who take and  
2 successfully complete advanced academic courses or college-level  
3 course work offered through dual credit programs provided under  
4 agreements between high schools and institutions of higher  
5 education.

6 SECTION 8. Sections 39.073(a), (b), and (f), Education  
7 Code, are amended to read as follows:

8 (a) The agency shall annually review the performance of each  
9 district and campus on the indicators adopted under Sections  
10 39.051(b)(1) through (10) [~~(8)~~] and determine if a change in the  
11 accreditation status of the district is warranted. The  
12 commissioner may determine how all indicators adopted under Section  
13 39.051(b) may be used to determine accountability ratings and to  
14 select districts and campuses for acknowledgment.

15 (b) Each annual review shall include an analysis of the  
16 indicators under Sections 39.051(b)(1) through (10) [~~(8)~~] to  
17 determine district and campus performance in relation to:

- 18 (1) standards established for each indicator;  
19 (2) required improvement as defined under Section  
20 39.051(c); and  
21 (3) comparable improvement as defined by Section  
22 39.051(c).

23 (f) In the computation of dropout rates under Section  
24 39.051(b)(3) [~~39.051(b)(2)~~], a student who is released from a  
25 juvenile pre-adjudication secure detention facility or juvenile  
26 post-adjudication secure correctional facility and fails to enroll  
27 in school or a student who leaves a residential treatment center

1 after receiving treatment for fewer than 85 days and fails to enroll  
2 in school may not be considered to have dropped out from the campus  
3 or school district serving the facility or center unless that  
4 campus or district is the one to which the student is regularly  
5 assigned.

6 SECTION 9. Section 39.074(e), Education Code, is amended to  
7 read as follows:

8 (e) If an annual review indicates low performance on one or  
9 more of the indicators under Sections 39.051(b)(1) through (10)  
10 [~~(8)~~] of one or more campuses in a district, the agency may conduct  
11 an on-site evaluation of those campuses only.

12 SECTION 10. Section 39.114(b), Education Code, is amended  
13 to read as follows:

14 (b) A school district may use funds allocated under Section  
15 42.2516(b)(3) on any instructional program in grades six through 12  
16 other than an athletic program if:

17 (1) the district is recognized as exceptional by the  
18 commissioner under the academic accountability indicator adopted  
19 under Section 39.051(b)(15) [~~39.051(b)(13)~~]; and

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

23 SECTION 11. (a) Not later than the 2008-2009 school year,  
24 the Texas Education Agency shall collect information concerning  
25 annual improvement in student achievement for purposes of Section  
26 39.051(b)(2), Education Code, as amended by this Act.

27 (b) Not later than the 2009-2010 school year, the Texas

1 Education Agency shall include, in evaluating the performance of  
2 school districts, campuses, and open-enrollment charter schools  
3 under Subchapter D, Chapter 39, Education Code, annual improvement  
4 in student achievement under Section 39.051(b)(2), Education Code,  
5 as amended by this Act.

6 SECTION 12. This Act applies beginning with the 2008-2009  
7 school year.

8 SECTION 13. This Act takes effect immediately if it  
9 receives a vote of two-thirds of all the members elected to each  
10 house, as provided by Section 39, Article III, Texas Constitution.  
11 If this Act does not receive the vote necessary for immediate  
12 effect, this Act takes effect September 1, 2007.