

1-1 By: West S.B. No. 1016  
1-2 (In the Senate - Filed February 28, 2007; March 14, 2007,  
1-3 read first time and referred to Committee on Education;  
1-4 May 2, 2007, reported favorably by the following vote: Yeas 7,  
1-5 Nays 0; May 2, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to providing a method for assessing the annual improvement  
1-9 in achievement of public school students on certain assessment  
1-10 instruments.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subsection (j), Section 28.006, Education Code,  
1-13 is amended to read as follows:

1-14 (j) No more than 15 percent of the funds certified by the  
1-15 commissioner under Subsection (i) may be spent on indirect costs.  
1-16 The commissioner shall evaluate the programs that fail to meet the  
1-17 standard of performance under Section 39.051(b)(10) [~~39.051(b)(8)~~]  
1-18 and may implement sanctions under Subchapter G, Chapter 39. The  
1-19 commissioner may audit the expenditures of funds appropriated for  
1-20 purposes of this section. The use of the funds appropriated for  
1-21 purposes of this section shall be verified as part of the district  
1-22 audit under Section 44.008.

1-23 SECTION 2. Section 39.022, Education Code, is amended to  
1-24 read as follows:

1-25 Sec. 39.022. ASSESSMENT PROGRAM. The State Board of  
1-26 Education by rule shall create and implement a statewide assessment  
1-27 program that is knowledge- and skills-based to ensure school  
1-28 accountability for student achievement and academic growth that  
1-29 achieves the goals provided under Section 4.002. After adopting  
1-30 rules under this section, the State Board of Education shall  
1-31 consider the importance of maintaining stability in the statewide  
1-32 assessment program when adopting any subsequent modification of the  
1-33 rules.

1-34 SECTION 3. Section 39.023, Education Code, is amended by  
1-35 amending Subsections (l) and (n) and adding Subsection (o) to read  
1-36 as follows:

1-37 (l) The State Board of Education shall adopt rules for the  
1-38 administration of the assessment instruments adopted under  
1-39 Subsections [~~Subsection~~] (a) and (o) in Spanish to students in  
1-40 grades three through six who are of limited English proficiency, as  
1-41 defined by Section 29.052, whose primary language is Spanish, and  
1-42 who are not otherwise exempt from the administration of an  
1-43 assessment instrument under Section 39.027(a)(3) or (4). Each  
1-44 student of limited English proficiency whose primary language is  
1-45 Spanish, other than a student to whom Subsection (b) applies, may be  
1-46 assessed using assessment instruments in Spanish under this  
1-47 subsection for up to three years or assessment instruments in  
1-48 English under Subsection (a). The language proficiency assessment  
1-49 committee established under Section 29.063 shall determine which  
1-50 students are administered assessment instruments in Spanish under  
1-51 this subsection.

1-52 (n) This subsection applies only to a student who is  
1-53 determined to have dyslexia or a related disorder and who is an  
1-54 individual with a disability under 29 U.S.C. Section 705(20) and  
1-55 its subsequent amendments. The agency shall adopt or develop  
1-56 appropriate criterion-referenced assessment instruments designed  
1-57 to assess the ability of and to be administered to each student to  
1-58 whom this subsection applies for whom the assessment instruments  
1-59 adopted under Subsections [~~Subsection~~] (a) and (o), even with  
1-60 allowable modifications, would not provide an appropriate measure  
1-61 of student achievement, as determined by the committee established  
1-62 by the board of trustees of the district to determine the placement  
1-63 of students with dyslexia or related disorders. The committee  
1-64 shall determine whether any allowable modification is necessary in

2-1 administering to a student an assessment instrument required under  
 2-2 this subsection. The assessment instruments required under this  
 2-3 subsection shall be administered on the same schedule as the  
 2-4 assessment instruments administered under Subsection (a) and, if  
 2-5 applicable, Subsection (o).

2-6 (o) The agency shall adopt or develop appropriate  
 2-7 criterion-referenced assessment instruments, separate from the  
 2-8 assessment instruments adopted or developed under Subsection (a),  
 2-9 designed to assess reading progress by tracking changes in a  
 2-10 student's performance during the school year. A school district or  
 2-11 open-enrollment charter school may administer an assessment  
 2-12 instrument under this subsection. A campus that administers a  
 2-13 reading assessment under this subsection must report the results to  
 2-14 the agency.

2-15 SECTION 4. Subsections (b), (c), and (d), Section 39.051,  
 2-16 Education Code, are amended to read as follows:

2-17 (b) Performance on the indicators adopted under this  
 2-18 section shall be compared to state-established standards. The  
 2-19 degree of change from one school year to the next in performance on  
 2-20 each indicator adopted under this section shall also be considered.  
 2-21 The indicators must be based on information that is disaggregated  
 2-22 by race, ethnicity, gender, and socioeconomic status and must  
 2-23 include:

2-24 (1) the results of assessment instruments required  
 2-25 under Sections 39.023(a), (c), and (l), aggregated by grade level  
 2-26 and subject area;

2-27 (2) annual improvement in student achievement, as  
 2-28 measured under Section 39.034, aggregated by grade level and  
 2-29 subject;

2-30 (3) dropout rates, including dropout rates and  
 2-31 district completion rates for grade levels 9 through 12, computed  
 2-32 in accordance with standards and definitions adopted by the  
 2-33 National Center for Education Statistics of the United States  
 2-34 Department of Education;

2-35 (4) ~~(3)~~ high school graduation rates, computed in  
 2-36 accordance with standards and definitions adopted in compliance  
 2-37 with the No Child Left Behind Act of 2001 (Pub. L. No. 107-110);

2-38 (5) ~~(4)~~ student attendance rates;

2-39 (6) ~~(5)~~ the percentage of graduating students who  
 2-40 attain scores on the secondary exit-level assessment instruments  
 2-41 required under Subchapter B that are equivalent to a passing score  
 2-42 on the assessment instrument required under Section 51.3062;

2-43 (7) ~~(6)~~ the percentage of graduating students who  
 2-44 meet the course requirements established for the recommended high  
 2-45 school program by State Board of Education rule;

2-46 (8) if applicable, the results of assessment  
 2-47 instruments administered under Section 39.023(o), aggregated by  
 2-48 grade level;

2-49 (9) ~~(7)~~ the results of the Scholastic Assessment  
 2-50 Test (SAT), the American College Test (ACT), articulated  
 2-51 postsecondary degree programs described by Section 61.852, and  
 2-52 certified workforce training programs described by Chapter 311,  
 2-53 Labor Code;

2-54 (10) ~~(8)~~ the percentage of students, aggregated by  
 2-55 grade level, provided accelerated instruction under Section  
 2-56 28.0211(c), the results of assessments administered under that  
 2-57 section, the percentage of students promoted through the grade  
 2-58 placement committee process under Section 28.0211, the subject of  
 2-59 the assessment instrument on which each student failed to perform  
 2-60 satisfactorily, and the performance of those students in the school  
 2-61 year following that promotion on the assessment instruments  
 2-62 required under Section 39.023;

2-63 (11) ~~(9)~~ for students who have failed to perform  
 2-64 satisfactorily on an assessment instrument required under Section  
 2-65 39.023(a) or (c), the numerical progress of those students grouped  
 2-66 by percentage on subsequent assessment instruments required under  
 2-67 those sections, aggregated by grade level and subject area;

2-68 (12) ~~(10)~~ the percentage of students exempted, by  
 2-69 exemption category, from the assessment program generally

3-1 applicable under this chapter;

3-2 (13) [~~(11)~~] the percentage of students of limited  
3-3 English proficiency exempted from the administration of an  
3-4 assessment instrument under Sections 39.027(a)(3) and (4);

3-5 (14) [~~(12)~~] the percentage of students in a special  
3-6 education program under Subchapter A, Chapter 29, assessed through  
3-7 assessment instruments developed or adopted under Section  
3-8 39.023(b);

3-9 (15) [~~(13)~~] the measure of progress toward  
3-10 preparation for postsecondary success; and

3-11 (16) [~~(14)~~] the measure of progress toward dual  
3-12 language proficiency under Section 39.034(b), for students of  
3-13 limited English proficiency, as defined by Section 29.052.

3-14 (c) Performance on the indicators [~~indicator~~] under  
3-15 Subsections [~~Subsection~~] (b)(1) and (2) shall be compared to state  
3-16 standards, required improvement, and comparable improvement. The  
3-17 state standard shall be established by the commissioner. Required  
3-18 improvement is defined as the progress necessary for the campus or  
3-19 district to meet state standards and for its students to meet exit  
3-20 requirements as defined by the commissioner. Comparable  
3-21 improvement is derived by measuring campuses and districts against  
3-22 a profile developed from a total state student performance database  
3-23 which exhibits substantial equivalence to the characteristics of  
3-24 students served by the campus or district, including past academic  
3-25 performance, socioeconomic status, ethnicity, and limited English  
3-26 proficiency.

3-27 (d) Annually, the commissioner shall define exemplary,  
3-28 recognized, and unacceptable performance for each academic  
3-29 excellence indicator included under Subsections (b)(1) through (9)  
3-30 [~~(7)~~] and shall project the standards for each of those levels of  
3-31 performance for succeeding years. For the indicator under  
3-32 Subsection (b)(10) [~~(b)(8)~~], the commissioner shall define  
3-33 exemplary, recognized, and unacceptable performance based on  
3-34 student performance for the period covering both the current and  
3-35 preceding academic years. In defining exemplary, recognized, and  
3-36 unacceptable performance for the indicators under Subsections  
3-37 (b)(3) [~~(b)(2)~~] and (5) [~~(4)~~], the commissioner may not consider as  
3-38 a dropout or as a student who has failed to attend school a student  
3-39 whose failure to attend school results from:

3-40 (1) the student's expulsion under Section 37.007; and

3-41 (2) as applicable:

3-42 (A) adjudication as having engaged in delinquent  
3-43 conduct or conduct indicating a need for supervision, as defined by  
3-44 Section 51.03, Family Code; or

3-45 (B) conviction of and sentencing for an offense  
3-46 under the Penal Code.

3-47 SECTION 5. Subsection (b), Section 39.052, Education Code,  
3-48 is amended to read as follows:

3-49 (b) The report card shall include the following  
3-50 information:

3-51 (1) where applicable, the academic excellence  
3-52 indicators adopted under Sections 39.051(b)(1) through (12)  
3-53 [~~(10)~~];

3-54 (2) average class size by grade level and subject;

3-55 (3) the administrative and instructional costs per  
3-56 student, computed in a manner consistent with Section 44.0071; and

3-57 (4) the district's instructional expenditures ratio  
3-58 and instructional employees ratio computed under Section 44.0071,  
3-59 and the statewide average of those ratios, as determined by the  
3-60 commissioner.

3-61 SECTION 6. Subsections (b) and (c), Section 39.072,  
3-62 Education Code, are amended to read as follows:

3-63 (b) The academic excellence indicators adopted under  
3-64 Sections 39.051(b)(1) through (10) [~~(8)~~] and the district's current  
3-65 special education compliance status with the agency shall be the  
3-66 main considerations of the agency in the rating of the district  
3-67 under this section. Additional criteria in the rules may include  
3-68 consideration of:

3-69 (1) compliance with statutory requirements and

4-1 requirements imposed by rule of the State Board of Education under  
4-2 specific statutory authority that relate to:

4-3 (A) reporting data through the Public Education  
4-4 Information Management System (PEIMS);

4-5 (B) the high school graduation requirements  
4-6 under Section 28.025; or

4-7 (C) an item listed in Sections  
4-8 7.056(e)(3)(C)-(I) that applies to the district;

4-9 (2) the effectiveness of the district's programs for  
4-10 special populations; and

4-11 (3) the effectiveness of the district's career and  
4-12 technology programs.

4-13 (c) The agency shall evaluate against state standards and  
4-14 shall, not later than August 1 of each year, report the performance  
4-15 of each campus in a district and each open-enrollment charter  
4-16 school on the basis of the campus's performance on the indicators  
4-17 adopted under Sections 39.051(b)(1) through (10) [~~(8)~~].  
4-18 Consideration of the effectiveness of district programs under  
4-19 Subsection (b)(2) or (3) must be based on data collected through the  
4-20 Public Education Information Management System for purposes of  
4-21 accountability under this chapter and include the results of  
4-22 assessments required under Section 39.023.

4-23 SECTION 7. Subsection (c), Section 39.0721, Education Code,  
4-24 is amended to read as follows:

4-25 (c) The performance standards on which a gold performance  
4-26 rating is based should include:

4-27 (1) student proficiency on:

4-28 (A) assessment instruments administered under  
4-29 Sections 39.023(a), (c), and (1); and

4-30 (B) other measures of proficiency determined by  
4-31 the commissioner;

4-32 (2) student performance on one or more nationally  
4-33 recognized norm-referenced assessment instruments;

4-34 (3) improvement in student performance, including  
4-35 annual improvement in student achievement, as measured under  
4-36 Section 39.034;

4-37 (4) in the case of middle or junior high school  
4-38 campuses, student proficiency in mathematics, including algebra;  
4-39 and

4-40 (5) in the case of high school campuses:

4-41 (A) the extent to which graduating students are  
4-42 academically prepared to attend institutions of higher education;

4-43 (B) the percentage of students who take advanced  
4-44 placement tests and student performance on those tests; and

4-45 (C) the percentage of students who take and  
4-46 successfully complete advanced academic courses or college-level  
4-47 course work offered through dual credit programs provided under  
4-48 agreements between high schools and institutions of higher  
4-49 education.

4-50 SECTION 8. Subsections (a), (b), and (f), Section 39.073,  
4-51 Education Code, are amended to read as follows:

4-52 (a) The agency shall annually review the performance of each  
4-53 district and campus on the indicators adopted under Sections  
4-54 39.051(b)(1) through (10) [~~(8)~~] and determine if a change in the  
4-55 accreditation status of the district is warranted. The  
4-56 commissioner may determine how all indicators adopted under Section  
4-57 39.051(b) may be used to determine accountability ratings and to  
4-58 select districts and campuses for acknowledgment.

4-59 (b) Each annual review shall include an analysis of the  
4-60 indicators under Sections 39.051(b)(1) through (10) [~~(8)~~] to  
4-61 determine district and campus performance in relation to:

4-62 (1) standards established for each indicator;

4-63 (2) required improvement as defined under Section  
4-64 39.051(c); and

4-65 (3) comparable improvement as defined by Section  
4-66 39.051(c).

4-67 (f) In the computation of dropout rates under Section  
4-68 39.051(b)(3) [~~39.051(b)(2)~~], a student who is released from a  
4-69 juvenile pre-adjudication secure detention facility or juvenile

5-1 post-adjudication secure correctional facility and fails to enroll  
5-2 in school or a student who leaves a residential treatment center  
5-3 after receiving treatment for fewer than 85 days and fails to enroll  
5-4 in school may not be considered to have dropped out from the campus  
5-5 or school district serving the facility or center unless that  
5-6 campus or district is the one to which the student is regularly  
5-7 assigned.

5-8 SECTION 9. Subsection (e), Section 39.074, Education Code,  
5-9 is amended to read as follows:

5-10 (e) If an annual review indicates low performance on one or  
5-11 more of the indicators under Sections 39.051(b)(1) through (10)  
5-12 [~~(8)~~] of one or more campuses in a district, the agency may conduct  
5-13 an on-site evaluation of those campuses only.

5-14 SECTION 10. Subsection (b), Section 39.114, Education Code,  
5-15 is amended to read as follows:

5-16 (b) A school district may use funds allocated under Section  
5-17 42.2516(b)(3) on any instructional program in grades six through 12  
5-18 other than an athletic program if:

5-19 (1) the district is recognized as exceptional by the  
5-20 commissioner under the academic accountability indicator adopted  
5-21 under Section 39.051(b)(15) [~~39.051(b)(13)~~]; and

5-22 (2) the district's completion rates for grades nine  
5-23 through 12 meet or exceed completion rate standards required by the  
5-24 commissioner to achieve a rating of exemplary under Section 39.072.

5-25 SECTION 11. (a) Not later than the 2008-2009 school year,  
5-26 the Texas Education Agency shall collect information concerning  
5-27 annual improvement in student achievement for purposes of  
5-28 Subdivision (2), Subsection (b), Section 39.051, Education Code, as  
5-29 amended by this Act.

5-30 (b) Not later than the 2009-2010 school year, the Texas  
5-31 Education Agency shall include, in evaluating the performance of  
5-32 school districts, campuses, and open-enrollment charter schools  
5-33 under Subchapter D, Chapter 39, Education Code, annual improvement  
5-34 in student achievement under Subdivision (2), Subsection (b),  
5-35 Section 39.051, Education Code, as amended by this Act.

5-36 SECTION 12. This Act applies beginning with the 2008-2009  
5-37 school year.

5-38 SECTION 13. This Act takes effect immediately if it  
5-39 receives a vote of two-thirds of all the members elected to each  
5-40 house, as provided by Section 39, Article III, Texas Constitution.  
5-41 If this Act does not receive the vote necessary for immediate  
5-42 effect, this Act takes effect September 1, 2007.

5-43 \* \* \* \* \*