

By: Shapiro, et al.

S.B. No. 1031

A BILL TO BE ENTITLED

AN ACT

relating to the administration of certain assessment instruments in public schools; providing a criminal penalty.

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

SECTION 1. Subsection (b), Section 18.006, Education Code, is amended to read as follows:

(b) In addition to other factors determined to be appropriate by the commissioner, the accountability system must include consideration of:

(1) student performance on the end-of-course ~~[secondary exit-level]~~ assessment instruments required by Section 39.023(c); and

(2) dropout rates, including dropout rates and diploma program completion rates for the grade levels served by the diploma program.

SECTION 2. Subsection (b), Section 21.006, Education Code, is amended to read as follows:

(b) In addition to the reporting requirement under Section 261.101, Family Code, the superintendent or director of a school district, regional education service center, or shared services arrangement shall notify the State Board for Educator Certification if the superintendent or director has reasonable cause to believe that:

(1) an educator employed by or seeking employment by

1 the district, service center, or shared services arrangement has a
2 criminal record;

3 (2) an educator's employment at the district, service
4 center, or shared services arrangement was terminated based on a
5 determination that the educator:

6 (A) abused or otherwise committed an unlawful act
7 with a student or minor;

8 (B) possessed, transferred, sold, or distributed
9 a controlled substance, as defined by Chapter 481, Health and
10 Safety Code, or by 21 U.S.C. Section 801 et seq., and its subsequent
11 amendments;

12 (C) illegally transferred, appropriated, or
13 expended funds or other property of the district, service center,
14 or shared services arrangement;

15 (D) attempted by fraudulent or unauthorized
16 means to obtain or alter a professional certificate or license for
17 the purpose of promotion or additional compensation; or

18 (E) committed a criminal offense or any part of a
19 criminal offense on school property or at a school-sponsored event;
20 [~~or~~]

21 (3) the educator resigned and reasonable evidence
22 supports a recommendation by the superintendent or director to
23 terminate the educator based on a determination that the educator
24 engaged in misconduct described by Subdivision (2); or

25 (4) the educator engaged in conduct that violated the
26 assessment instrument security procedures established under
27 Section 39.0301.

1 SECTION 3. Subsection (b), Section 25.005, Education Code,
2 is amended to read as follows:

3 (b) A reciprocity agreement must:

4 (1) address procedures for:

5 (A) transferring student records;

6 (B) awarding credit for completed course work;

7 and

8 (C) permitting a student to satisfy the
9 requirements of Section 39.025 through successful performance on
10 comparable end-of-course or other exit-level assessment
11 instruments administered in another state; and

12 (2) include appropriate criteria developed by the
13 agency.

14 SECTION 4. Subsection (b), Section 29.081, Education Code,
15 is amended to read as follows:

16 (b) Each district shall provide accelerated instruction to
17 a student enrolled in the district who has taken an end-of-course
18 ~~[the secondary exit-level]~~ assessment instrument administered
19 under Section 39.023(c) and has not performed satisfactorily on the
20 assessment instrument ~~[each section]~~ or who is at risk of dropping
21 out of school.

22 SECTION 5. Subsection (f), Section 29.087, Education Code,
23 as amended by Chapters 283 and 373, Acts of the 78th Legislature,
24 Regular Session, 2003, is reenacted and amended to read as follows:

25 (f) A student participating in a program authorized by this
26 section, other than a student ordered to participate under
27 Subsection (d)(1), must have taken the appropriate end-of-course

1 assessment instruments specified by Section 39.023(c) [~~39.023(a)~~
2 ~~for grade 9~~] before entering the program and must take each
3 appropriate end-of-course [~~grade level~~] assessment instrument
4 administered during the period in which the student is enrolled in
5 the program. Except for a student ordered to participate under
6 Subsection (d)(1), a student participating in the program may not
7 take the high school equivalency examination unless the student has
8 taken the assessment instruments required by this subsection.

9 SECTION 6. Subsection (e), Section 30.021, Education Code,
10 is amended to read as follows:

11 (e) The school shall cooperate with public and private
12 agencies and organizations serving students and other persons with
13 visual impairments in the planning, development, and
14 implementation of effective educational and rehabilitative service
15 delivery systems associated with educating students with visual
16 impairments. To maximize and make efficient use of state
17 facilities, funding, and resources, the services provided in this
18 area may include conducting a cooperative program with other
19 agencies to serve students who have graduated from high school by
20 completing all academic requirements applicable to students in
21 regular education, excluding satisfactory performance under
22 Section 39.025 [~~on the exit-level assessment instrument~~], who are
23 younger than 22 years of age on September 1 of the school year and
24 who have identified needs related to vocational training,
25 independent living skills, orientation and mobility, social and
26 leisure skills, compensatory skills, or remedial academic skills.

27 SECTION 7. Section 39.023, Education Code, is amended by

1 amending Subsections (a), (c), and (e) and adding Subsections
2 (c-1), (c-2), and (c-3) to read as follows:

3 (a) The agency shall adopt or develop appropriate
4 criterion-referenced assessment instruments designed to assess
5 essential knowledge and skills in reading, writing, mathematics,
6 social studies, and science. All students, except students
7 assessed under Subsection (b) or (l) or exempted under Section
8 39.027, shall be assessed in:

9 (1) mathematics, annually in grades three through
10 seven without the aid of technology and in grade [~~grades~~] eight
11 [~~through 11~~] with the aid of technology on any assessment
12 instrument [~~instruments~~] that includes [~~include~~] algebra;

13 (2) reading, annually in grades three through eight
14 [~~nine~~];

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

17 (4) [~~English language arts, in grade 10,~~
18 [~~5~~] social studies, in grade [~~grades~~] eight [~~and~~
19 ~~10~~];

20 (5) [~~6~~] science, in grades five and [~~7~~] eight [~~, and~~
21 ~~10~~]; and

22 (6) [~~7~~] any other subject and grade required by
23 federal law.

24 (c) The agency shall also adopt end-of-course [~~secondary~~
25 ~~exit-level~~] assessment instruments for secondary-level courses in
26 Algebra I, Algebra II, geometry, biology, chemistry, physics,
27 English I, English II, English III, world geography, world history,

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

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

9 (c-1) The agency shall develop any assessment instrument
10 required under this section in a manner that allows for the
11 measurement of annual improvement in student achievement as
12 required by Sections 39.034(c) and (d).

13 (c-2) The agency may adopt end-of-course assessment
14 instruments for courses not listed in Subsection (c). A student's
15 performance on an end-of-course assessment instrument adopted
16 under this subsection is not subject to the performance
17 requirements established under Subsection (c) or Section 39.025.

18 (c-3) In adopting a schedule for the administration of
19 assessment instruments under this section, the State Board of
20 Education shall require:

21 (1) assessment instruments administered under
22 Subsection (a) to be administered on a schedule so that the first
23 assessment instrument is administered at least two weeks later than
24 the date on which the first assessment instrument was administered
25 under Subsection (a) during the 2006-2007 school year; and

26 (2) the spring administration of end-of-course
27 assessment instruments under Subsection (c) to occur in each school

1 district not earlier than the first full week in May, except that
2 the spring administration of the end-of-course assessment
3 instruments in English I, English II, and English III must be
4 permitted to occur at an earlier date.

5 (e) Under rules adopted by the State Board of Education,
6 every third [~~other~~] year, the agency shall release the questions
7 and answer keys to each assessment instrument administered under
8 Subsection (a), (b), (c), (d), or (l) after the last time the
9 instrument is administered for that school year. To ensure a valid
10 bank of questions for use each year, the agency is not required to
11 release a question that is being field-tested and was not used to
12 compute the student's score on the instrument. The agency shall
13 also release, under board rule, each question that is no longer
14 being field-tested and that was not used to compute a student's
15 score.

16 SECTION 8. Subchapter B, Chapter 39, Education Code, is
17 amended by adding Sections 39.0233 and 39.0234 to read as follows:

18 Sec. 39.0233. OPTIONAL QUESTIONS MEASURING COLLEGE
19 READINESS. The agency, in coordination with the Texas Higher
20 Education Coordinating Board, shall adopt a series of optional
21 questions to be included, where applicable, in an end-of-course
22 assessment instrument administered under Section 39.023(c) to be
23 used, as appropriate, for purposes of Section 51.3062 or to assess a
24 student's readiness for advanced coursework. The optional
25 questions must be developed in a manner consistent with any college
26 readiness standards adopted under Sections 39.113 and 51.3062. A
27 student's performance on an optional question adopted under this

1 section may not be used to determine the student's performance on an
2 end-of-course assessment instrument.

3 Sec. 39.0234. ADMINISTRATION OF ASSESSMENT INSTRUMENTS BY
4 COMPUTER. (a) The agency shall provide for assessment instruments
5 required under Section 39.023 to be designed so that those
6 assessment instruments can be administered by computer.

7 (b) Not later than September 1, 2008, each school district
8 shall provide the agency with data regarding the ability of the
9 district to administer to students assessment instruments required
10 under Section 39.023 by computer. The agency shall compile the data
11 provided by school districts under this subsection into a report
12 recommending a plan and timeline for enabling each district in this
13 state to administer the assessment instruments by computer. Not
14 later than December 1, 2008, the agency shall deliver the report to
15 each member of the legislature. This subsection expires June 1,
16 2009.

17 SECTION 9. Section 39.025, Education Code, is amended to
18 read as follows:

19 Sec. 39.025. SECONDARY-LEVEL [~~EXIT-LEVEL~~] PERFORMANCE
20 REQUIRED. (a) The commissioner shall adopt rules requiring a
21 student participating in the recommended or advanced high school
22 program to be administered each end-of-course assessment
23 instrument listed in Section 39.023(c) and requiring a student
24 participating in the minimum high school program to be administered
25 an end-of-course assessment instrument listed in Section 39.023(c)
26 only for a course in which the student is enrolled and for which an
27 end-of-course assessment instrument is administered. A student is

1 required to achieve a cumulative score that is at least equal to the
2 product of the number of end-of-course assessment instruments
3 administered to the student and 70, with each end-of-course
4 assessment instrument scored on a scale of 100. For purposes of
5 this subsection, a student's cumulative score is determined using
6 the student's highest score on each end-of-course assessment
7 instrument administered to the student. A student may not receive a
8 high school diploma until the student has performed satisfactorily
9 on the end-of-course [~~secondary exit-level~~] assessment instruments
10 in the manner provided under this subsection [~~for English language~~
11 ~~arts, mathematics, social studies, and science administered under~~
12 ~~Section 39.023(c)~~]. This subsection does not require a student to
13 demonstrate readiness to enroll in an institution of higher
14 education.

15 (a-1) The commissioner by rule shall determine a method by
16 which a student's satisfactory performance on an advanced placement
17 test, international baccalaureate examination, a Scholastic
18 Assessment Test (SAT) Subject Test, or another assessment
19 instrument determined by the commissioner to be at least as
20 rigorous as an end-of-course assessment instrument adopted under
21 Section 39.023(c) may be used as a factor in determining whether the
22 student satisfies the requirements of Subsection (a), including the
23 cumulative score requirement of that subsection.

24 (b) Each time an end-of-course [~~a secondary exit-level~~]
25 assessment instrument is administered, a student who has not been
26 given a high school diploma because of a failure to perform
27 satisfactorily on the assessment instrument [~~for that subject area~~]

1 may retake the assessment instrument.

2 (c) A student who has been denied a high school diploma
3 under this section [~~Subsections (a) and (b)~~] and who subsequently
4 performs at the level necessary to comply with the requirements of
5 this section [~~satisfactorily on each secondary exit-level~~
6 ~~assessment instrument~~] shall be issued a high school diploma.

7 (d) Notwithstanding Subsection (a), the commissioner by
8 rule shall adopt one or more alternative nationally recognized norm
9 referenced assessment instruments under this section to administer
10 to a student to qualify for a high school diploma if the student
11 enrolls after January 1 of the school year in which the student is
12 otherwise eligible to graduate:

13 (1) for the first time in a public school in this
14 state; or

15 (2) after an absence of at least four years from any
16 public school in this state.

17 (e) The commissioner shall establish a required performance
18 level for an assessment instrument adopted under Subsection (d)
19 that is at least as rigorous as the performance level required to be
20 met under Subsection (a) [~~for the secondary exit-level assessment~~
21 ~~instrument for the same subject~~].

22 (f) The commissioner shall by rule adopt a transition plan
23 to implement the amendments made by S.B. No. 1031, Acts of the 80th
24 Legislature, Regular Session, 2007, to this section and Sections
25 39.023(a) and (c) and 39.051(b)(5). The rules must provide for the
26 end-of-course assessment instruments adopted under Section
27 39.023(c) to be administered beginning with students entering the

1 ninth grade during the 2009-2010 school year. During the period
2 under which the transition to end-of-course assessment instruments
3 is made:

4 (1) for students entering a grade above the ninth
5 grade during the 2009-2010 school year, the commissioner shall
6 retain, administer, and use for campus and district ratings under
7 Subchapter D the assessment instruments required by Section
8 39.023(a) or (c), as that section existed before amendment by
9 S.B. No. 1031, Acts of the 80th Legislature, Regular Session, 2007;
10 and

11 (2) the agency may defer releasing assessment
12 instrument questions and answer keys as required by Section
13 39.023(e) to the extent necessary to develop additional assessment
14 instruments.

15 (g) Rules adopted under Subsection (f) must require that
16 each student who will be subject to the requirements of Subsection
17 (a) is entitled to notice of the specific requirements applicable
18 to the student. Notice under this subsection must be provided not
19 later than the date the student enters the eighth grade. Subsection
20 (f) and this subsection expire September 1, 2013.

21 SECTION 10. Subchapter B, Chapter 39, Education Code, is
22 amended by adding Section 39.0261 to read as follows:

23 Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) In
24 addition to the assessment instruments otherwise authorized or
25 required by this subchapter:

26 (1) each school year and at state cost, a school
27 district shall administer to students in the spring of the eighth

1 grade an established, valid, reliable, and nationally
2 norm-referenced preliminary college preparation assessment
3 instrument for the purpose of diagnosing the academic strengths and
4 deficiencies of students before entrance into high school;

5 (2) each school year and at state cost, a school
6 district shall administer to students in the 10th grade an
7 established, valid, reliable, and nationally norm-referenced
8 preliminary college preparation assessment instrument for the
9 purpose of measuring a student's progress toward readiness for
10 college and the workplace; and

11 (3) high school students in the spring of the 11th
12 grade or during the 12th grade may select and take once, at state
13 cost, one of the valid, reliable, and nationally norm-referenced
14 assessment instruments used by colleges and universities as part of
15 their undergraduate admissions processes.

16 (b) The agency shall:

17 (1) select and approve vendors of the specific
18 assessment instruments administered under this section; and

19 (2) pay all fees associated with the administration of
20 the assessment instrument from funds allotted under the Foundation
21 School Program, and the commissioner shall reduce the total amount
22 of state funds allocated to each district from any source in the
23 same manner described for a reduction in allotments under Section
24 42.253.

25 (c) The agency shall ensure that vendors are not paid under
26 Subsection (b) for the administration of an assessment instrument
27 to a student to whom the assessment instrument is not actually

1 administered. The agency may comply with this subsection by any
2 reasonable means, including by creating a refund system under which
3 a vendor returns any payment made for a student who registered for
4 the administration of an assessment instrument but did not appear
5 for the administration.

6 (d) A vendor that administers an assessment instrument for a
7 district under this section shall report the results of the
8 assessment instrument to the agency. The agency shall:

9 (1) include a student's results on the assessment
10 instrument in the electronic student records system established
11 under Section 7.010; and

12 (2) ensure that a student and the student's parent
13 receive a report of the student's results on the assessment
14 instrument.

15 (e) Subsection (a)(3) does not prohibit a high school
16 student in the spring of the 11th grade or during the 12th grade
17 from selecting and taking, at the student's own expense, one of the
18 valid, reliable, and nationally norm-referenced assessment
19 instruments used by colleges and universities as part of their
20 undergraduate admissions processes more than once.

21 SECTION 11. Subchapter B, Chapter 39, Education Code, is
22 amended by adding Sections 39.0301, 39.0302, and 39.0303 to read as
23 follows:

24 Sec. 39.0301. SECURITY IN ADMINISTRATION OF ASSESSMENT
25 INSTRUMENTS. (a) The commissioner:

26 (1) shall establish procedures for the administration
27 of assessment instruments adopted or developed under Section

1 39.023, including procedures designed to ensure the security of the
2 assessment instruments; and

3 (2) may establish record retention requirements for
4 school district records related to the security of assessment
5 instruments.

6 (b) The commissioner may develop and implement statistical
7 methods and standards for identifying potential violations of
8 procedures established under Subsection (a) to ensure the security
9 of assessment instruments adopted or developed under Section
10 39.023. In developing the statistical methods and standards, the
11 commissioner may include indicators of:

12 (1) potential violations that are monitored annually;
13 and

14 (2) patterns of inappropriate assessment practices
15 that occur over time.

16 (c) The commissioner may establish one or more advisory
17 committees to advise the commissioner and agency regarding the
18 monitoring of assessment practices and the use of statistical
19 methods and standards for identifying potential violations of
20 assessment instrument security, including standards to be
21 established by the commissioner for selecting school districts for
22 investigation for a potential assessment security violation under
23 Subsection (e). The commissioner may not appoint an agency
24 employee to an advisory committee established under this
25 subsection.

26 (d) Any document created for the deliberation of an advisory
27 committee established under Subsection (c) or any recommendation of

1 such a committee is confidential and not subject to disclosure
2 under Chapter 552, Government Code. Except as provided by
3 Subsection (e), the statistical methods and standards adopted under
4 this section and the results of applying those methods and
5 standards are confidential and not subject to disclosure under
6 Chapter 552, Government Code.

7 (e) The agency may conduct an investigation of a school
8 district for a potential violation of assessment instrument
9 security in accordance with the standards described by Subsection
10 (c). Each school year, after completing all investigations of
11 school districts selected for investigation, the agency shall
12 disclose the identity of each district selected for investigation
13 and the statistical methods and standards used to select the
14 district.

15 (f) At any time, the commissioner may authorize the audit of
16 a random sample of school districts to determine the compliance of
17 the districts with procedures established under Subsection (a).
18 The identity of each school district selected for audit under this
19 subsection is confidential and not subject to disclosure under
20 Chapter 552, Government Code, except that the agency shall disclose
21 the identity of each district after completion of the audit.

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

25 Sec. 39.0302. ISSUANCE OF SUBPOENAS. (a) During an agency
26 investigation or audit of a school district under Section
27 39.0301(e) or (f), an accreditation investigation under Section

1 39.075(a)(8), or an investigation by the State Board for Educator
2 Certification of an educator for an alleged violation of an
3 assessment instrument security procedure established under Section
4 39.0301(a), the commissioner may issue a subpoena to compel the
5 attendance of a relevant witness or the production, for inspection
6 or copying, of relevant evidence that is located in this state.

7 (b) A subpoena may be served personally or by certified
8 mail.

9 (c) If a person fails to comply with a subpoena, the
10 commissioner, acting through the attorney general, may file suit to
11 enforce the subpoena in a district court in this state. On finding
12 that good cause exists for issuing the subpoena, the court shall
13 order the person to comply with the subpoena. The court may punish
14 a person who fails to obey the court order.

15 (d) All information and materials subpoenaed or compiled in
16 connection with an investigation or audit described by Subsection
17 (a):

18 (1) are confidential and not subject to disclosure
19 under Chapter 552, Government Code; and

20 (2) are not subject to disclosure, discovery,
21 subpoena, or other means of legal compulsion for release to any
22 person other than:

23 (A) the commissioner or the State Board for
24 Educator Certification, as applicable;

25 (B) agency employees or agents involved in the
26 investigation, as applicable; and

27 (C) the office of the attorney general, the state

1 auditor's office, and law enforcement agencies.

2 Sec. 39.0303. SECURE ASSESSMENT INSTRUMENTS; CRIMINAL
3 PENALTY. (a) A person commits an offense if:

4 (1) the person intentionally discloses the contents of
5 any portion of a secure assessment instrument developed or
6 administered under this subchapter, including the answer to any
7 item in the assessment instrument; and

8 (2) the disclosure affects or is likely to affect the
9 individual performance of one or more students on the assessment
10 instrument.

11 (b) An offense under this section is a Class C misdemeanor.

12 SECTION 12. Subsection (d), Section 39.034, Education Code,
13 is amended to read as follows:

14 (d) The agency shall determine the necessary annual
15 improvement required each year for a student to be prepared to
16 perform satisfactorily on [pass] the end-of-course assessment
17 instruments [exit-level assessment instrument] required under this
18 subchapter for graduation. The agency shall report the necessary
19 annual improvement required to the district. Each year, the report
20 must state whether the student fell below, met, or exceeded the
21 necessary target for improvement.

22 SECTION 13. Subchapter B, Chapter 39, Education Code, is
23 amended by adding Sections 39.035 and 39.0351 to read as follows:

24 Sec. 39.035. LIMITATION ON FIELD TESTING OF ASSESSMENT
25 INSTRUMENTS. (a) Subject to Subsection (b), the agency may
26 conduct field testing of questions for any assessment instrument
27 administered under Section 39.023(a), (b), (c), (d), or (l) that is

1 separate from the administration of the assessment instrument not
2 more frequently than every other school year.

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

6 (c) Before the beginning of each school year, the agency
7 shall notify each school district regarding the required
8 participation of the district in field testing activities during
9 that school year.

10 Sec. 39.0351. FIELD TESTING STUDY. (a) The agency shall
11 conduct a study of the sample size and sample procedures used in
12 field testing of questions for assessment instruments administered
13 under Section 39.023.

14 (b) The study required by Subsection (a) must also examine
15 the feasibility of conducting field testing that is separate from
16 the administration of an assessment instrument in the fall of the
17 school year.

18 (c) Not later than December 1, 2008, the agency shall submit
19 a report regarding the results of the study to the legislature.

20 (d) This section expires January 1, 2009.

21 SECTION 14. Subsection (b), Section 39.051, Education Code,
22 is amended to read as follows:

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

1 by race, ethnicity, gender, and socioeconomic status and must
2 include:

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

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

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

14 (4) student attendance rates;

15 (5) the percentage of graduating students who attain
16 scores on the optional questions developed for end-of-course
17 [secondary exit-level] assessment instruments under Section
18 39.0233 [required under Subchapter B] that are equivalent to a
19 passing score on the assessment instrument required under Section
20 51.3062;

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

24 (7) the results of the Scholastic Assessment Test
25 (SAT), the American College Test (ACT), articulated postsecondary
26 degree programs described by Section 61.852, and certified
27 workforce training programs described by Chapter 311, Labor Code;

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

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

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

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

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

24 (13) the measure of progress toward preparation for
25 postsecondary success; and

26 (14) the measure of progress toward dual language
27 proficiency under Section 39.034(b), for students of limited

1 English proficiency, as defined by Section 29.052.

2 SECTION 15. Subsection (a), Section 39.075, Education Code,
3 is amended to read as follows:

4 (a) The commissioner shall authorize special accreditation
5 investigations to be conducted:

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

9 (2) when excessive numbers of allowable exemptions
10 from the required state assessment instruments are determined;

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

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

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

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

25 (7) when excessive numbers of students in special
26 education programs under Subchapter A, Chapter 29, are assessed
27 through assessment instruments developed or adopted under Section

1 39.023(b); ~~[or]~~

2 (8) in response to an allegation regarding or an
3 analysis using a statistical method result indicating a possible
4 violation of an assessment instrument security procedure
5 established under Section 39.0301, including for the purpose of
6 investigating or auditing a school district under that section; or

7 (9) as the commissioner otherwise determines
8 necessary.

9 SECTION 16. Subsection (q), Section 51.3062, Education
10 Code, is amended to read as follows:

11 (q) A student who has achieved scores ~~[a score]~~ set by the
12 board on the optional questions developed for end-of-course
13 assessment instruments ~~[an exit-level assessment instrument~~
14 ~~required]~~ under Section 39.0233 ~~[39.023]~~ is exempt from the
15 requirements of this section. The exemption is effective for the
16 three-year period following the date a student takes the last
17 assessment instrument for purposes of this section and achieves the
18 standard set by the board. This subsection does not apply during
19 any period for which the board designates the optional questions
20 developed for end-of-course assessment instruments ~~[exit-level~~
21 ~~assessment instrument required]~~ under Section 39.0233 ~~[39.023]~~ as
22 the primary assessment instrument under this section, except that
23 the three-year period described by this subsection remains in
24 effect for students who qualify for an exemption under this
25 subsection ~~[section]~~ before that period.

26 SECTION 17. Subsection (j), Section 39.023, Education Code,
27 is repealed.

1 SECTION 18. A reference in the Education Code to an
2 end-of-course assessment instrument administered under Subsection
3 (c), Section 39.023, Education Code, includes an exit-level
4 assessment instrument administered under that section as provided
5 by Subsection (f), Section 39.025, Education Code, as added by this
6 Act.

7 SECTION 19. Section 39.035, Education Code, as added by
8 this Act, applies beginning with the 2008-2009 school year.

9 SECTION 20. (a) Except as otherwise provided by this Act,
10 this Act applies beginning with the 2007-2008 school year.

11 (b) Beginning with the 2007-2008 school year, the
12 commissioner of education may conduct random audits as authorized
13 under Subsection (f), Section 39.0301, Education Code, as added by
14 this Act. Beginning with the 2008-2009 school year, the
15 commissioner of education may conduct accreditation investigations
16 as authorized under Subdivision (8), Subsection (a), Section
17 39.075, Education Code, as added by this Act.

18 (c) During the 2008-2009 school year, the commissioner of
19 education may use the statistical methods and standards established
20 under Subsection (b), Section 39.0301, Education Code, as added by
21 this Act, on a pilot basis to test the accuracy and predictive
22 validity of the methods and standards. Pilot statistical methods
23 and standards developed for use in the 2008-2009 school year are
24 confidential and not subject to disclosure under Chapter 552,
25 Government Code. Without releasing the pilot statistical methods,
26 the commissioner of education shall release the results of any
27 investigation conducted on the basis of those methods during the

1 2008-2009 school year on completion of the investigation.

2 SECTION 21. This Act takes effect September 1, 2007.