

AN ACT

relating to public school accountability and 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 (1) an educator employed by or seeking employment by
2 the district, service center, or shared services arrangement has a
3 criminal record;

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

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

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

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

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

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

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

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

1 Section 39.0301.

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

4 (b) A reciprocity agreement must:

5 (1) address procedures for:

6 (A) transferring student records;

7 (B) awarding credit for completed course work;

8 and

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

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

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

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

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

26 (f) A student participating in a program authorized by this
27 section, other than a student ordered to participate under

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

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

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

1 SECTION 7. Chapter 39, Education Code, is amended by adding
2 Subchapter A to read as follows:

3 SUBCHAPTER A. COMPREHENSIVE REVIEW OF PUBLIC SCHOOL ACCOUNTABILITY
4 SYSTEM

5 Sec. 39.001. SELECT COMMITTEE ON PUBLIC SCHOOL
6 ACCOUNTABILITY. (a) The Select Committee on Public School
7 Accountability is established to conduct a comprehensive review of
8 the public school accountability system.

9 (b) The committee is composed of 15 members appointed as
10 follows:

11 (1) the presiding officers of the standing committees
12 of each house of the legislature with primary jurisdiction over
13 public education;

14 (2) one member of the senate, appointed by the
15 lieutenant governor;

16 (3) one member of the house of representatives,
17 appointed by the speaker of the house of representatives;

18 (4) the commissioner;

19 (5) the commissioner of higher education;

20 (6) one public school teacher, one public school
21 principal, and one public school district superintendent, each
22 currently employed in this state and each appointed jointly by the
23 lieutenant governor and the speaker of the house of
24 representatives;

25 (7) two persons each of whom is currently employed as
26 an educator in a public school in this state and each appointed
27 jointly by the lieutenant governor and the speaker of the house of

1 representatives;

2 (8) one representative from the business community or
3 the public, appointed by the lieutenant governor;

4 (9) one representative from the business community or
5 the public, appointed by the speaker of the house of
6 representatives; and

7 (10) two representatives from the business community
8 and the public, at least one of whom has one or more children who
9 currently attend public school in this state, appointed by the
10 governor.

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

15 Sec. 39.002. COMMITTEE MEETINGS. (a) Not later than
16 October 1, 2007, the committee shall hold an organizational
17 meeting.

18 (b) The presiding officers described by Section
19 39.001(b)(1) serve as co-chairs of the committee.

20 (c) Committee meetings shall be held at the call of the
21 co-chairs.

22 Sec. 39.003. COMPENSATION AND REIMBURSEMENT. (a) A member
23 of the committee is entitled to reimbursement for actual and
24 necessary expenses incurred in performing committee duties.

25 (b) A legislative member of the committee is entitled to
26 reimbursement from the appropriate fund of the house of the
27 legislature in which the member serves.

1 (c) A member other than a legislative member is entitled to
2 reimbursement from funds appropriated to the committee.

3 Sec. 39.004. COMMITTEE STAFF. Staff members of the
4 standing committees described by Section 39.001(b)(1) shall serve
5 as the staff of the committee.

6 Sec. 39.005. OBJECTIVES OF STUDY. (a) The committee shall
7 conduct a comprehensive review of the public school accountability
8 system. In conducting its review, the committee shall study the
9 mission, organizational structure, design, processes, and
10 practices of similar accountability systems in other states and the
11 requirements established by federal law.

12 (b) A review under this section must include a thorough
13 study of:

14 (1) each element of the accountability system
15 prescribed by this chapter, with special emphasis on:

16 (A) the indicators used to determine
17 accreditation status;

18 (B) rewards and incentives for campus
19 excellence; and

20 (C) the responsibilities of the commissioner in
21 assisting and, if necessary, imposing sanctions on districts that
22 do not meet state performance standards;

23 (2) the extent to which the accountability system is
24 aligned with the requirements prescribed by the No Child Left
25 Behind Act of 2001 (20 U.S.C. Section 6301 et seq.);

26 (3) the extent to which the accountability system
27 reflects the public education mission, objectives, and goals

1 provided by Chapter 4;

2 (4) the extent to which the accountability system
3 meets public expectations;

4 (5) the extent to which the accountability system
5 fairly and accurately reports the effectiveness of educators,
6 instructional programs, support services, and financial
7 expenditures and the impact of these elements on student
8 achievement;

9 (6) the methods available to monitor the progress of
10 each public school student, with special emphasis on methods to
11 monitor demonstrable growth in academic achievement;

12 (7) the performance indicators that would
13 successfully measure the effectiveness of the campus teaching and
14 learning environment, including the effect of student discipline on
15 that environment;

16 (8) the effectiveness of the accountability system in
17 reporting the performance of open-enrollment charter schools and
18 alternative education programs;

19 (9) the implementation of statewide assessment
20 instruments, including specifically end-of-course assessment
21 instruments;

22 (10) the extent to which the accountability system
23 measures the performance of districts and campuses on important
24 indicators and aspects of the educational process, other than
25 student scores on standardized assessment instruments;

26 (11) the extent to which the accountability system
27 clearly and accurately reports to parents and interested persons

1 the overall performance of districts and campuses; and

2 (12) the extent to which the accountability system
3 considers the different student demographics of districts and
4 campuses.

5 (c) The committee shall conduct public hearings throughout
6 the state and solicit testimony about the accountability system
7 from parents of public school children and other interested
8 persons. At least one public hearing must be held at a public
9 school during a time that public school students are able to attend
10 the hearing.

11 (d) The commissioner shall ensure that the committee has
12 access to any documentation and agency personnel the committee
13 requests.

14 (e) The Legislative Budget Board, comptroller, state
15 auditor, and any other state agency, official, or personnel shall
16 cooperate with the committee in carrying out its duties under this
17 subchapter.

18 (f) The committee may coordinate the study under this
19 subchapter with any other legislative study, as appropriate.

20 Sec. 39.006. REPORT. (a) Not later than December 1, 2008,
21 the committee shall provide a report that:

22 (1) states the findings of the study conducted under
23 this subchapter; and

24 (2) includes any recommendations for statutory
25 changes.

26 (b) The report must be approved by a majority of the
27 committee members. A member who disagrees with any part of the

1 report may attach a dissenting statement to the report.

2 Sec. 39.007. EXPIRATION. This subchapter expires January
3 13, 2009.

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

7 (a) The agency shall adopt or develop appropriate
8 criterion-referenced assessment instruments designed to assess
9 essential knowledge and skills in reading, writing, mathematics,
10 social studies, and science. All students, except students
11 assessed under Subsection (b) or (l) or exempted under Section
12 39.027, shall be assessed in:

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

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

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

21 (4) [~~English language arts, in grade 10,~~
22 [~~5~~] social studies, in grade [~~grades~~] eight [~~and~~
23 ~~10~~];

24 (5) [~~6~~] science, in grades five and [~~7~~] eight [~~and~~
25 ~~10~~]; and

26 (6) [~~7~~] any other subject and grade required by
27 federal law.

1 (c) The agency shall also adopt end-of-course [~~secondary~~
2 ~~exit-level~~] assessment instruments for secondary-level courses in
3 Algebra I, Algebra II, geometry, biology, chemistry, physics,
4 English I, English II, English III, world geography, world history,
5 and United States history. The Algebra I, Algebra II, and geometry
6 end-of-course assessment instruments must be administered with the
7 aid of technology. A school district shall comply with State Board
8 of Education rules regarding administration of the assessment
9 instruments listed in this subsection and shall adopt a policy that
10 requires a student's performance on an end-of-course assessment
11 instrument for a course listed in this subsection in which the
12 student is enrolled to account for 15 percent of the student's final
13 grade for the course. If a student retakes an end-of-course
14 assessment instrument for a course listed in this subsection, as
15 provided by Section 39.025, a school district is not required to use
16 the student's performance on the subsequent administration or
17 administrations of the assessment instrument to determine the
18 student's final grade for the course [~~designed to be administered~~
19 ~~to students in grade 11 to assess essential knowledge and skills in~~
20 ~~mathematics, English language arts, social studies, and science.~~
21 ~~The mathematics section must include at least Algebra I and~~
22 ~~geometry with the aid of technology. The English language arts~~
23 ~~section must include at least English III and must include the~~
24 ~~assessment of essential knowledge and skills in writing. The~~
25 ~~social studies section must include early American and United~~
26 ~~States history. The science section must include at least biology~~
27 ~~and integrated chemistry and physics. The assessment instruments~~

1 ~~must be designed to assess a student's mastery of minimum skills~~
2 ~~necessary for high school graduation and readiness to enroll in an~~
3 ~~institution of higher education].~~ If a student is in a special
4 education program under Subchapter A, Chapter 29, the student's
5 admission, review, and dismissal committee shall determine whether
6 any allowable modification is necessary in administering to the
7 student an assessment instrument required under this subsection or
8 whether the student should be exempted under Section 39.027(a)(2).
9 The State Board of Education shall administer the assessment
10 instruments. The State Board of Education shall adopt a schedule
11 for the administration of end-of-course ~~[secondary exit-level]~~
12 assessment instruments that complies with the requirements of
13 Subsection (c-3). ~~[Each student who did not perform satisfactorily~~
14 ~~on any secondary exit-level assessment instrument when initially~~
15 ~~tested shall be given multiple opportunities to retake that~~
16 ~~assessment instrument. A student who performs at or above a level~~
17 ~~established by the Texas Higher Education Coordinating Board on the~~
18 ~~secondary exit-level assessment instruments is exempt from the~~
19 ~~requirements of Section 51.306.]~~

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

24 (c-2) The agency may adopt end-of-course assessment
25 instruments for courses not listed in Subsection (c). A student's
26 performance on an end-of-course assessment instrument adopted
27 under this subsection is not subject to the performance

1 requirements established under Subsection (c) or Section 39.025.

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

5 (1) assessment instruments administered under
6 Subsection (a) to be administered on a schedule so that the first
7 assessment instrument is administered at least two weeks later than
8 the date on which the first assessment instrument was administered
9 under Subsection (a) during the 2006-2007 school year; and

10 (2) the spring administration of end-of-course
11 assessment instruments under Subsection (c) to occur in each school
12 district not earlier than the first full week in May, except that
13 the spring administration of the end-of-course assessment
14 instruments in English I, English II, and English III must be
15 permitted to occur at an earlier date.

16 (c-4) To the extent practicable, the agency shall ensure
17 that each end-of-course assessment instrument adopted under
18 Subsection (c) is:

19 (1) developed in a manner that measures a student's
20 performance under the college readiness standards established
21 under Section 28.008; and

22 (2) validated by national postsecondary education
23 experts for college readiness content and performance standards.

24 (c-5) A student's performance on an end-of-course
25 assessment instrument required under Subsection (c) must be
26 included in the student's academic achievement record.

27 (c-6) In adopting an end-of-course assessment instrument

1 under this section, the agency shall consider the use of an existing
2 assessment instrument that is currently available. The agency may
3 use an existing assessment instrument that is currently available
4 only if the assessment instrument:

5 (1) is aligned with the essential knowledge and skills
6 of the subject being assessed; and

7 (2) allows for the measurement of annual improvement
8 in student achievement as provided by Subsection (c-1).

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

20 SECTION 9. Subchapter B, Chapter 39, Education Code, is
21 amended by adding Sections 39.0233 and 39.0234 to read as follows:

22 Sec. 39.0233. SPECIAL-PURPOSE QUESTIONS INCLUDED IN
23 END-OF-COURSE ASSESSMENT INSTRUMENTS. (a) The agency, in
24 coordination with the Texas Higher Education Coordinating Board,
25 shall adopt a series of questions to be included in an end-of-course
26 assessment instrument administered under Section 39.023(c) to be
27 used for purposes of Section 51.3062. The questions adopted under

1 this subsection must be developed in a manner consistent with any
2 college readiness standards adopted under Sections 39.113 and
3 51.3062.

4 (b) In addition to the questions adopted under Subsection
5 (a), the agency shall adopt a series of questions to be included in
6 an end-of-course assessment instrument administered under Section
7 39.023(c) to be used for purposes of identifying students who are
8 likely to succeed in an advanced high school course. A school
9 district shall notify a student who performs at a high level on the
10 questions adopted under this subsection and the student's parent or
11 guardian of the student's performance and potential to succeed in
12 an advanced high school course. A school district may not require a
13 student to perform at a particular level on the questions adopted
14 under this subsection in order to be eligible to enroll in an
15 advanced high school course.

16 (c) The State Board of Education shall establish a level of
17 performance on the questions adopted under this section that
18 indicates a student's college readiness. A student's performance
19 on the questions adopted under this section must be evaluated
20 separately from the student's performance on the remainder of the
21 assessment instrument. A student's performance on a question
22 adopted under this section may not be used to determine the
23 student's performance on the assessment instrument for purposes of
24 Section 39.023 or 39.025. The commissioner shall adopt rules
25 concerning the reporting of a student's performance on the
26 questions adopted under this section.

27 (d) The questions adopted under this section must be

1 administered in a separate section of the end-of-course assessment
2 instrument in which the questions are included.

3 Sec. 39.0234. ADMINISTRATION OF ASSESSMENT INSTRUMENTS BY
4 COMPUTER. (a) The agency shall ensure that assessment instruments
5 required under Section 39.023 are capable of being administered by
6 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 10. 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, in each subject in the foundation curriculum
2 under Section 28.002(a)(1), a cumulative score that is at least
3 equal to the product of the number of end-of-course assessment
4 instruments administered to the student in that subject and 70,
5 with each end-of-course assessment instrument scored on a scale of
6 100. A student must achieve a score of at least 60 on an
7 end-of-course assessment instrument for the score to count towards
8 the student's cumulative score. For purposes of this subsection, a
9 student's cumulative score is determined using the student's
10 highest score on each end-of-course assessment instrument
11 administered to the student. A student may not receive a high
12 school diploma until the student has performed satisfactorily on
13 the end-of-course [~~secondary exit-level~~] assessment instruments in
14 the manner provided under this subsection [~~for English language~~
15 ~~arts, mathematics, social studies, and science administered under~~
16 ~~Section 39.023(c)~~]. This subsection does not require a student to
17 demonstrate readiness to enroll in an institution of higher
18 education.

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

1 (b) Each time an end-of-course [~~a secondary exit-level~~]
2 assessment instrument is administered, a student who failed to
3 achieve a score of at least 60 on the assessment instrument shall
4 retake the assessment instrument. Any other student may retake an
5 end-of-course assessment instrument for any reason. A student is
6 not required to retake a course as a condition of retaking an
7 end-of-course assessment instrument [~~a student who has not been~~
8 ~~given a high school diploma because of a failure to perform~~
9 ~~satisfactorily on the assessment instrument for that subject area~~
10 ~~may retake the assessment instrument~~].

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

15 **(b-2) If a school district determines that a student, on**
16 **completion of grade 11, is unlikely to achieve the cumulative score**
17 **requirements for one or more subjects prescribed by Subsection (a)**
18 **for receiving a high school diploma, the district shall require the**
19 **student to enroll in a corresponding content-area college**
20 **preparatory course for which an end-of-course assessment**
21 **instrument has been adopted, if available. A student who enrolls in**
22 **a college preparatory course described by this subsection shall be**
23 **administered an end-of-course assessment instrument for the**
24 **course, with the end-of-course assessment instrument scored on a**
25 **scale of 40. A student may use the student's score on the**
26 **end-of-course assessment instrument for the college preparatory**
27 **course towards satisfying the cumulative score requirements**

1 prescribed by Subsection (a).

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 2011-2012 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 2011-2012 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, 2015.

21 SECTION 11. Subchapter B, Chapter 39, Education Code, is
22 amended by adding Sections 39.0261 and 39.0262 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 (f) The provisions of this section apply only if the
22 legislature appropriates funds for purposes of this section.

23 Sec. 39.0262. ADMINISTRATION OF DISTRICT-REQUIRED
24 ASSESSMENT INSTRUMENTS IN CERTAIN SUBJECT AREAS. (a) In a subject
25 area for which assessment instruments are administered under
26 Section 39.023, a school district may not administer
27 district-required assessment instruments to any student on more

1 than 10 percent of the instructional days in any school year.

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

7 SECTION 12. Subchapter B, Chapter 39, Education Code, is
8 amended by adding Sections 39.0301, 39.0302, 39.0303, and 39.0304
9 to read as follows:

10 Sec. 39.0301. SECURITY IN ADMINISTRATION OF ASSESSMENT
11 INSTRUMENTS. (a) The commissioner:

12 (1) shall establish procedures for the administration
13 of assessment instruments adopted or developed under Section
14 39.023, including procedures designed to ensure the security of the
15 assessment instruments; and

16 (2) may establish record retention requirements for
17 school district records related to the security of assessment
18 instruments.

19 (b) The commissioner may develop and implement statistical
20 methods and standards for identifying potential violations of
21 procedures established under Subsection (a) to ensure the security
22 of assessment instruments adopted or developed under Section
23 39.023. In developing the statistical methods and standards, the
24 commissioner may include indicators of:

25 (1) potential violations that are monitored annually;
26 and

27 (2) patterns of inappropriate assessment practices

1 that occur over time.

2 (c) The commissioner may establish one or more advisory
3 committees to advise the commissioner and agency regarding the
4 monitoring of assessment practices and the use of statistical
5 methods and standards for identifying potential violations of
6 assessment instrument security, including standards to be
7 established by the commissioner for selecting school districts for
8 investigation for a potential assessment security violation under
9 Subsection (e). The commissioner may not appoint an agency
10 employee to an advisory committee established under this
11 subsection.

12 (d) Any document created for the deliberation of an advisory
13 committee established under Subsection (c) or any recommendation of
14 such a committee is confidential and not subject to disclosure
15 under Chapter 552, Government Code. Except as provided by
16 Subsection (e), the statistical methods and standards adopted under
17 this section and the results of applying those methods and
18 standards are confidential and not subject to disclosure under
19 Chapter 552, Government Code.

20 (e) The agency may conduct an investigation of a school
21 district for a potential violation of assessment instrument
22 security in accordance with the standards described by Subsection
23 (c). Each school year, after completing all investigations of
24 school districts selected for investigation, the agency shall
25 disclose the identity of each district selected for investigation
26 and the statistical methods and standards used to select the
27 district.

1 (f) At any time, the commissioner may authorize the audit of
2 a random sample of school districts to determine the compliance of
3 the districts with procedures established under Subsection (a).
4 The identity of each school district selected for audit under this
5 subsection is confidential and not subject to disclosure under
6 Chapter 552, Government Code, except that the agency shall disclose
7 the identity of each district after completion of the audit.

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

11 Sec. 39.0302. ISSUANCE OF SUBPOENAS. (a) During an agency
12 investigation or audit of a school district under Section
13 39.0301(e) or (f), an accreditation investigation under Section
14 39.075(a)(8), or an investigation by the State Board for Educator
15 Certification of an educator for an alleged violation of an
16 assessment instrument security procedure established under Section
17 39.0301(a), the commissioner may issue a subpoena to compel the
18 attendance of a relevant witness or the production, for inspection
19 or copying, of relevant evidence that is located in this state.

20 (b) A subpoena may be served personally or by certified
21 mail.

22 (c) If a person fails to comply with a subpoena, the
23 commissioner, acting through the attorney general, may file suit to
24 enforce the subpoena in a district court in this state. On finding
25 that good cause exists for issuing the subpoena, the court shall
26 order the person to comply with the subpoena. The court may punish
27 a person who fails to obey the court order.

1 (d) All information and materials subpoenaed or compiled in
2 connection with an investigation or audit described by Subsection
3 (a):

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

6 (2) are not subject to disclosure, discovery,
7 subpoena, or other means of legal compulsion for release to any
8 person other than:

9 (A) the commissioner or the State Board for
10 Educator Certification, as applicable;

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

13 (C) the office of the attorney general, the state
14 auditor's office, and law enforcement agencies.

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

17 (1) the person intentionally discloses the contents of
18 any portion of a secure assessment instrument developed or
19 administered under this subchapter, including the answer to any
20 item in the assessment instrument; and

21 (2) the disclosure affects or is likely to affect the
22 individual performance of one or more students on the assessment
23 instrument.

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

25 Sec. 39.0304. TRAINING IN ASSESSMENT INSTRUMENT
26 ADMINISTRATION. (a) To ensure that each administration of
27 assessment instruments under Section 39.023 is valid, reliable, and

1 in compliance with the requirements of this subchapter, the
2 commissioner may require training for school district employees
3 involved in the administration of the assessment instruments.

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

9 (c) The commissioner may adopt rules necessary to implement
10 this section.

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

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

21 SECTION 14. Subchapter B, Chapter 39, Education Code, is
22 amended by adding Sections 39.035, 39.0351, and 39.036 to read as
23 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 Sec. 39.036. VERTICAL SCALE FOR CERTAIN ASSESSMENT
22 INSTRUMENTS. (a) The agency shall develop a vertical scale for
23 assessing student performance on assessment instruments
24 administered under Sections 39.023(a)(1) and (2) in a manner that
25 allows the agency to compare the performance of a student on the
26 assessment instruments from one grade level to the next.

27 (b) The commissioner shall adopt rules necessary to

1 implement this section.

2 (c) Not later than June 1, 2008, the agency shall develop a
3 vertical scale as required by Subsection (a). The agency shall
4 implement the vertical scale in the administration of assessment
5 instruments under Sections 39.023(a)(1) and (2) beginning with the
6 2008-2009 school year. This subsection expires September 1, 2009.

7 SECTION 15. Subsection (b), Section 39.051, Education Code,
8 is amended to read as follows:

9 (b) Performance on the indicators adopted under this
10 section shall be compared to state-established standards. The
11 degree of change from one school year to the next in performance on
12 each indicator adopted under this section shall also be considered.
13 The indicators must be based on information that is disaggregated
14 by race, ethnicity, gender, and socioeconomic status and must
15 include:

16 (1) the results of assessment instruments required
17 under Sections 39.023(a), (c), and (1), aggregated by grade level
18 and subject area;

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

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

27 (4) student attendance rates;

1 (5) the percentage of graduating students who attain
2 scores on the questions developed for end-of-course [~~secondary~~
3 ~~exit-level~~] assessment instruments under Section 39.0233(a)
4 [~~required under Subchapter B~~] that are equivalent to a passing
5 score on the assessment instrument required under Section 51.3062;

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

9 (7) the results of the Scholastic Assessment Test
10 (SAT), the American College Test (ACT), articulated postsecondary
11 degree programs described by Section 61.852, and certified
12 workforce training programs described by Chapter 311, Labor Code;

13 (8) the percentage of students, aggregated by grade
14 level, provided accelerated instruction under Section 28.0211(c),
15 the results of assessments administered under that section, the
16 percentage of students promoted through the grade placement
17 committee process under Section 28.0211, the subject of the
18 assessment instrument on which each student failed to perform
19 satisfactorily, and the performance of those students in the school
20 year following that promotion on the assessment instruments
21 required under Section 39.023;

22 (9) for students who have failed to perform
23 satisfactorily on an assessment instrument required under Section
24 39.023(a) or (c), the numerical progress of those students grouped
25 by percentage on subsequent assessment instruments required under
26 those sections, aggregated by grade level and subject area;

27 (10) the percentage of students exempted, by exemption

1 category, from the assessment program generally applicable under
2 this chapter;

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

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

9 (13) the measure of progress toward preparation for
10 postsecondary success; and

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

14 SECTION 16. Subsection (a), Section 39.075, Education Code,
15 is amended to read as follows:

16 (a) The commissioner shall authorize special accreditation
17 investigations to be conducted:

18 (1) when excessive numbers of absences of students
19 eligible to be tested on state assessment instruments are
20 determined;

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

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

26 (4) in response to established compliance reviews of
27 the district's financial accounting practices and state and federal

1 program requirements;

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

5 (6) in response to an allegation involving a conflict
6 between members of the board of trustees or between the board and
7 the district administration if it appears that the conflict
8 involves a violation of a role or duty of the board members or the
9 administration clearly defined by this code;

10 (7) when excessive numbers of students in special
11 education programs under Subchapter A, Chapter 29, are assessed
12 through assessment instruments developed or adopted under Section
13 39.023(b); ~~[or]~~

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

19 (9) as the commissioner otherwise determines
20 necessary.

21 SECTION 17. Subsection (q), Section 51.3062, Education
22 Code, is amended to read as follows:

23 (q) A student who has achieved scores ~~[a score]~~ set by the
24 board on the questions developed for end-of-course assessment
25 instruments ~~[an exit-level assessment instrument required]~~ under
26 Section 39.0233(a) ~~[39.023]~~ is exempt from the requirements of this
27 section. The exemption is effective for the three-year period

1 following the date a student takes the last assessment instrument
2 for purposes of this section and achieves the standard set by the
3 board. This subsection does not apply during any period for which
4 the board designates the questions developed for end-of-course
5 assessment instruments [~~exit-level assessment instrument required~~]
6 under Section 39.0233(a) [~~39.023~~] as the primary assessment
7 instrument under this section, except that the three-year period
8 described by this subsection remains in effect for students who
9 qualify for an exemption under this subsection [~~section~~] before
10 that period.

11 SECTION 18. Subsection (j), Section 39.023, Education Code,
12 is repealed.

13 SECTION 19. A reference in the Education Code to an
14 end-of-course assessment instrument administered under Subsection
15 (c), Section 39.023, Education Code, includes an exit-level
16 assessment instrument administered under that section as provided
17 by Subsection (f), Section 39.025, Education Code, as added by this
18 Act.

19 SECTION 20. On the expiration of any contract entered into
20 before September 1, 2007, between the Texas Education Agency and a
21 vendor for the development of assessment instruments required under
22 Section 39.023, Education Code, the Texas Education Agency shall
23 issue a request for proposals for the development of end-of-course
24 assessment instruments required under Subsection (c), Section
25 39.023, Education Code, as amended by this Act. The Texas Education
26 Agency may allow a vendor with whom the agency has contracted for
27 the development of assessment instruments under Section 39.023,

1 Education Code, before September 1, 2007, to begin developing
2 end-of-course assessment instruments required under Subsection
3 (c), Section 39.023, Education Code, as amended by this Act, before
4 the expiration of the contract.

5 SECTION 21. Not later than September 1, 2011, the
6 legislature shall enact a public school accountability system that
7 is aligned with the provisions of this Act.

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

10 SECTION 23. (a) Except as otherwise provided by this Act,
11 this Act applies beginning with the 2007-2008 school year.

12 (b) Beginning with the 2007-2008 school year, the
13 commissioner of education may conduct random audits as authorized
14 under Subsection (f), Section 39.0301, Education Code, as added by
15 this Act. Beginning with the 2008-2009 school year, the
16 commissioner of education may conduct accreditation investigations
17 as authorized under Subdivision (8), Subsection (a), Section
18 39.075, Education Code, as added by this Act.

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

1 investigation conducted on the basis of those methods during the
2 2008-2009 school year on completion of the investigation.

3 SECTION 24. This Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1031 passed the Senate on April 19, 2007, by the following vote: Yeas 30, Nays 0; May 18, 2007, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 22, 2007, House granted request of the Senate; May 26, 2007, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1031 passed the House, with amendments, on May 15, 2007, by the following vote: Yeas 145, Nays 0, one present not voting; May 22, 2007, House granted request of the Senate for appointment of Conference Committee; May 26, 2007, House adopted Conference Committee Report by the following vote: Yeas 141, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor