

1-1 By: Shapiro, et al. S.B. No. 1031
1-2 (In the Senate - Filed March 1, 2007; March 14, 2007, read
1-3 first time and referred to Committee on Education; April 16, 2007,
1-4 reported adversely, with favorable Committee Substitute by the
1-5 following vote: Yeas 6, Nays 0; April 16, 2007, sent to printer.)

1-6 COMMITTEE SUBSTITUTE FOR S.B. No. 1031 By: Shapiro

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the administration of certain assessment instruments in
1-10 public schools; providing a criminal penalty.

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

1-12 SECTION 1. Subsection (b), Section 18.006, Education Code,
1-13 is amended to read as follows:

1-14 (b) In addition to other factors determined to be
1-15 appropriate by the commissioner, the accountability system must
1-16 include consideration of:

1-17 (1) student performance on the end-of-course
1-18 [~~secondary exit-level~~] assessment instruments required by Section
1-19 39.023(c); and

1-20 (2) dropout rates, including dropout rates and diploma
1-21 program completion rates for the grade levels served by the diploma
1-22 program.

1-23 SECTION 2. Subsection (b), Section 21.006, Education Code,
1-24 is amended to read as follows:

1-25 (b) In addition to the reporting requirement under Section
1-26 261.101, Family Code, the superintendent or director of a school
1-27 district, regional education service center, or shared services
1-28 arrangement shall notify the State Board for Educator Certification
1-29 if the superintendent or director has reasonable cause to believe
1-30 that:

1-31 (1) an educator employed by or seeking employment by
1-32 the district, service center, or shared services arrangement has a
1-33 criminal record;

1-34 (2) an educator's employment at the district, service
1-35 center, or shared services arrangement was terminated based on a
1-36 determination that the educator:

1-37 (A) abused or otherwise committed an unlawful act
1-38 with a student or minor;

1-39 (B) possessed, transferred, sold, or distributed
1-40 a controlled substance, as defined by Chapter 481, Health and
1-41 Safety Code, or by 21 U.S.C. Section 801 et seq., and its subsequent
1-42 amendments;

1-43 (C) illegally transferred, appropriated, or
1-44 expended funds or other property of the district, service center,
1-45 or shared services arrangement;

1-46 (D) attempted by fraudulent or unauthorized
1-47 means to obtain or alter a professional certificate or license for
1-48 the purpose of promotion or additional compensation; or

1-49 (E) committed a criminal offense or any part of a
1-50 criminal offense on school property or at a school-sponsored event;
1-51 [~~or~~]

1-52 (3) the educator resigned and reasonable evidence
1-53 supports a recommendation by the superintendent or director to
1-54 terminate the educator based on a determination that the educator
1-55 engaged in misconduct described by Subdivision (2); or

1-56 (4) the educator engaged in conduct that violated the
1-57 assessment instrument security procedures established under
1-58 Section 39.0301.

1-59 SECTION 3. Subsection (b), Section 25.005, Education Code,
1-60 is amended to read as follows:

1-61 (b) A reciprocity agreement must:

1-62 (1) address procedures for:

1-63 (A) transferring student records;

(B) awarding credit for completed course work;

and

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

(2) include appropriate criteria developed by the agency.

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

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

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

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

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

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

SECTION 7. Section 39.023, Education Code, is amended by amending Subsections (a), (c), and (e) and adding Subsections (c-1), (c-2), and (c-3) to read as follows:

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

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

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

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

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

(5) [4] science, in grades five and [7] eight [7 and

3-1 10]; and

3-2 (6) [(7)] any other subject and grade required by
3-3 federal law.

3-4 (c) The agency shall also adopt end-of-course [~~secondary~~
3-5 ~~exit-level~~] assessment instruments for secondary-level courses in
3-6 Algebra I, Algebra II, geometry, biology, chemistry, physics,
3-7 English I, English II, English III, world geography, world history,
3-8 and United States history. A school district shall comply with
3-9 State Board of Education rules regarding administration of the
3-10 assessment instruments listed in this subsection and shall adopt a
3-11 policy that requires a student's performance on an end-of-course
3-12 assessment instrument for a course listed in this subsection in
3-13 which the student is enrolled to account for 15 percent of the
3-14 student's final grade for the course [~~designed to be administered~~
3-15 ~~to students in grade 11 to assess essential knowledge and skills in~~
3-16 ~~mathematics, English language arts, social studies, and science.~~
3-17 ~~The mathematics section must include at least Algebra I and~~
3-18 ~~geometry with the aid of technology. The English language arts~~
3-19 ~~section must include at least English III and must include the~~
3-20 ~~assessment of essential knowledge and skills in writing. The~~
3-21 ~~social studies section must include early American and United~~
3-22 ~~States history. The science section must include at least biology~~
3-23 ~~and integrated chemistry and physics. The assessment instruments~~
3-24 ~~must be designed to assess a student's mastery of minimum skills~~
3-25 ~~necessary for high school graduation and readiness to enroll in an~~
3-26 ~~institution of higher education]. If a student is in a special~~
3-27 ~~education program under Subchapter A, Chapter 29, the student's~~
3-28 ~~admission, review, and dismissal committee shall determine whether~~
3-29 ~~any allowable modification is necessary in administering to the~~
3-30 ~~student an assessment instrument required under this subsection or~~
3-31 ~~whether the student should be exempted under Section 39.027(a)(2).~~
3-32 ~~The State Board of Education shall administer the assessment~~
3-33 ~~instruments. The State Board of Education shall adopt a schedule~~
3-34 ~~for the administration of end-of-course~~ [~~secondary exit-level~~]
3-35 ~~assessment instruments that complies with the requirements of~~
3-36 ~~Subsection (c-3). Each student who did not perform satisfactorily~~
3-37 ~~on any end-of-course~~ [~~secondary exit-level~~]
3-38 ~~assessment instrument when initially tested shall be given multiple opportunities to~~
3-39 ~~retake that assessment instrument. [A student who performs at or~~
3-40 ~~above a level established by the Texas Higher Education~~
3-41 ~~Coordinating Board on the secondary exit-level assessment~~
3-42 ~~instruments is exempt from the requirements of Section 51.306.]~~

3-43 (c-1) The agency shall develop any assessment instrument
3-44 required under this section in a manner that allows for the
3-45 measurement of annual improvement in student achievement as
3-46 required by Sections 39.034(c) and (d).

3-47 (c-2) The agency may adopt end-of-course assessment
3-48 instruments for courses not listed in Subsection (c). A student's
3-49 performance on an end-of-course assessment instrument adopted
3-50 under this subsection is not subject to the performance
3-51 requirements established under Subsection (c) or Section 39.025.

3-52 (c-3) In adopting a schedule for the administration of
3-53 assessment instruments under this section, the State Board of
3-54 Education shall require:

3-55 (1) assessment instruments administered under
3-56 Subsection (a) to be administered on a schedule so that the first
3-57 assessment instrument is administered at least two weeks later than
3-58 the date on which the first assessment instrument was administered
3-59 under Subsection (a) during the 2006-2007 school year;

3-60 (2) end-of-course assessment instruments administered
3-61 under Subsection (c) to be administered in each school district in
3-62 this state during the last 20 instructional days of the school year;
3-63 and

3-64 (3) notwithstanding Subdivision (2), that
3-65 end-of-course assessment instruments in English I, English II, and
3-66 English III may be administered earlier than the last 20
3-67 instructional days of the school year.

3-68 (e) Under rules adopted by the State Board of Education,
3-69 every third [~~other~~] year, the agency shall release the questions

4-1 and answer keys to each assessment instrument administered under
 4-2 Subsection (a), (b), (c), (d), or (l) after the last time the
 4-3 instrument is administered for that school year. To ensure a valid
 4-4 bank of questions for use each year, the agency is not required to
 4-5 release a question that is being field-tested and was not used to
 4-6 compute the student's score on the instrument. The agency shall
 4-7 also release, under board rule, each question that is no longer
 4-8 being field-tested and that was not used to compute a student's
 4-9 score.

4-10 SECTION 8. Subchapter B, Chapter 39, Education Code, is
 4-11 amended by adding Sections 39.0233 and 39.0234 to read as follows:

4-12 Sec. 39.0233. OPTIONAL QUESTIONS MEASURING COLLEGE
 4-13 READINESS. The agency, in coordination with the Texas Higher
 4-14 Education Coordinating Board, shall adopt a series of optional
 4-15 questions to be included, where applicable, in an end-of-course
 4-16 assessment instrument administered under Section 39.023(c) to be
 4-17 used, as appropriate, for purposes of Section 51.3062 or to assess a
 4-18 student's readiness for advanced coursework. The optional
 4-19 questions must be developed in a manner consistent with any college
 4-20 readiness standards adopted under Sections 39.113 and 51.3062. A
 4-21 student's performance on an optional question adopted under this
 4-22 section may not be used to determine the student's performance on an
 4-23 end-of-course assessment instrument.

4-24 Sec. 39.0234. ADMINISTRATION OF ASSESSMENT INSTRUMENTS BY
 4-25 COMPUTER. (a) The agency shall provide for assessment instruments
 4-26 required under Section 39.023 to be designed so that those
 4-27 assessment instruments can be administered by computer.

4-28 (b) Not later than September 1, 2008, each school district
 4-29 shall provide the agency with data regarding the ability of the
 4-30 district to administer to students assessment instruments required
 4-31 under Section 39.023 by computer. The agency shall compile the data
 4-32 provided by school districts under this subsection into a report
 4-33 recommending a plan and timeline for enabling each district in this
 4-34 state to administer the assessment instruments by computer. Not
 4-35 later than December 1, 2008, the agency shall deliver the report to
 4-36 each member of the legislature. This subsection expires June 1,
 4-37 2009.

4-38 SECTION 9. Section 39.025, Education Code, is amended to
 4-39 read as follows:

4-40 Sec. 39.025. ~~SECONDARY-LEVEL~~ [EXIT-LEVEL] PERFORMANCE
 4-41 REQUIRED. (a) The commissioner shall adopt rules requiring a
 4-42 student participating in the recommended or advanced high school
 4-43 program to be administered each end-of-course assessment
 4-44 instrument listed in Section 39.023(c) and requiring a student
 4-45 participating in the minimum high school program to be administered
 4-46 an end-of-course assessment instrument listed in Section 39.023(c)
 4-47 only for a course in which the student is enrolled and for which an
 4-48 end-of-course assessment instrument is administered. A student is
 4-49 required to achieve a cumulative score that is at least equal to the
 4-50 product of the number of end-of-course assessment instruments
 4-51 administered to the student and 70, with each end-of-course
 4-52 assessment instrument scored on a scale of 100. For purposes of
 4-53 this subsection, a student's cumulative score is determined using
 4-54 the student's highest score on each end-of-course assessment
 4-55 instrument administered to the student. A student may not receive a
 4-56 high school diploma until the student has performed satisfactorily
 4-57 on the end-of-course [~~secondary exit-level~~] assessment instruments
 4-58 in the manner provided under this subsection [~~for English language~~
 4-59 ~~arts, mathematics, social studies, and science administered under~~
 4-60 ~~Section 39.023(c)]. This subsection does not require a student to~~
 4-61 ~~demonstrate readiness to enroll in an institution of higher~~
 4-62 ~~education.~~

4-63 (a-1) The commissioner by rule shall determine a method by
 4-64 which a student's satisfactory performance on an advanced placement
 4-65 test, international baccalaureate examination, a Scholastic
 4-66 Assessment Test (SAT) Subject Test, or another assessment
 4-67 instrument determined by the commissioner to be at least as
 4-68 rigorous as an end-of-course assessment instrument adopted under
 4-69 Section 39.023(c) may be used as a factor in determining whether the

5-1 student satisfies the requirements of Subsection (a), including the
 5-2 cumulative score requirement of that subsection.

5-3 (b) Each time an end-of-course [a secondary exit-level]
 5-4 assessment instrument is administered, a student who has not been
 5-5 given a high school diploma because of a failure to perform
 5-6 satisfactorily on the assessment instrument [for that subject area]
 5-7 may retake the assessment instrument.

5-8 (c) A student who has been denied a high school diploma
 5-9 under this section [Subsections (a) and (b)] and who subsequently
 5-10 performs at the level necessary to comply with the requirements of
 5-11 this section [satisfactorily on each secondary exit-level
 5-12 assessment instrument] shall be issued a high school diploma.

5-13 (d) Notwithstanding Subsection (a), the commissioner by
 5-14 rule shall adopt one or more alternative nationally recognized norm
 5-15 referenced assessment instruments under this section to administer
 5-16 to a student to qualify for a high school diploma if the student
 5-17 enrolls after January 1 of the school year in which the student is
 5-18 otherwise eligible to graduate:

5-19 (1) for the first time in a public school in this
 5-20 state; or

5-21 (2) after an absence of at least four years from any
 5-22 public school in this state.

5-23 (e) The commissioner shall establish a required performance
 5-24 level for an assessment instrument adopted under Subsection (d)
 5-25 that is at least as rigorous as the performance level required to be
 5-26 met under Subsection (a) [for the secondary exit-level assessment
 5-27 instrument for the same subject].

5-28 (f) The commissioner shall by rule adopt a transition plan
 5-29 to implement the amendments made by S.B. No. 1031, Acts of the 80th
 5-30 Legislature, Regular Session, 2007, to this section and Sections
 5-31 39.023(a) and (c) and 39.051(b)(5). The rules must provide for the
 5-32 end-of-course assessment instruments adopted under Section
 5-33 39.023(c) to be administered beginning with students entering the
 5-34 ninth grade during the 2009-2010 school year. During the period
 5-35 under which the transition to end-of-course assessment instruments
 5-36 is made:

5-37 (1) for students entering a grade above the ninth
 5-38 grade during the 2009-2010 school year, the commissioner shall
 5-39 retain, administer, and use for campus and district ratings under
 5-40 Subchapter D the assessment instruments required by Section
 5-41 39.023(a) or (c), as that section existed before amendment by
 5-42 S.B. No. 1031, Acts of the 80th Legislature, Regular Session, 2007;
 5-43 and

5-44 (2) the agency may defer releasing assessment
 5-45 instrument questions and answer keys as required by Section
 5-46 39.023(e) to the extent necessary to develop additional assessment
 5-47 instruments.

5-48 (g) Rules adopted under Subsection (f) must require that
 5-49 each student who will be subject to the requirements of Subsection
 5-50 (a) is entitled to notice of the specific requirements applicable
 5-51 to the student. Notice under this subsection must be provided not
 5-52 later than the date the student enters the eighth grade. Subsection
 5-53 (f) and this subsection expire September 1, 2013.

5-54 SECTION 10. Subchapter B, Chapter 39, Education Code, is
 5-55 amended by adding Section 39.0261 to read as follows:

5-56 Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) In
 5-57 addition to the assessment instruments otherwise authorized or
 5-58 required by this subchapter:

5-59 (1) each school year and at state cost, a school
 5-60 district shall administer to students in the spring of the eighth
 5-61 grade an established, valid, reliable, and nationally
 5-62 norm-referenced preliminary college preparation assessment
 5-63 instrument for the purpose of diagnosing the academic strengths and
 5-64 deficiencies of students before entrance into high school;

5-65 (2) each school year and at state cost, a school
 5-66 district shall administer to students in the 10th grade an
 5-67 established, valid, reliable, and nationally norm-referenced
 5-68 preliminary college preparation assessment instrument for the
 5-69 purpose of measuring a student's progress toward readiness for

6-1 college and the workplace; and

6-2 (3) high school students in the spring of the 11th
6-3 grade or during the 12th grade may select and take once, at state
6-4 cost, one of the valid, reliable, and nationally norm-referenced
6-5 assessment instruments used by colleges and universities as part of
6-6 their undergraduate admissions processes.

6-7 (b) The agency shall:

6-8 (1) select and approve vendors of the specific
6-9 assessment instruments administered under this section; and

6-10 (2) pay all fees associated with the administration of
6-11 the assessment instrument from funds allotted under the Foundation
6-12 School Program, and the commissioner shall reduce the total amount
6-13 of state funds allocated to each district from any source in the
6-14 same manner described for a reduction in allotments under Section
6-15 42.253.

6-16 (c) The agency shall ensure that vendors are not paid under
6-17 Subsection (b) for the administration of an assessment instrument
6-18 to a student to whom the assessment instrument is not actually
6-19 administered. The agency may comply with this subsection by any
6-20 reasonable means, including by creating a refund system under which
6-21 a vendor returns any payment made for a student who registered for
6-22 the administration of an assessment instrument but did not appear
6-23 for the administration.

6-24 (d) A vendor that administers an assessment instrument for a
6-25 district under this section shall report the results of the
6-26 assessment instrument to the agency. The agency shall:

6-27 (1) include a student's results on the assessment
6-28 instrument in the electronic student records system established
6-29 under Section 7.010; and

6-30 (2) ensure that a student and the student's parent
6-31 receive a report of the student's results on the assessment
6-32 instrument.

6-33 (e) Subsection (a)(3) does not prohibit a high school
6-34 student in the spring of the 11th grade or during the 12th grade
6-35 from selecting and taking, at the student's own expense, one of the
6-36 valid, reliable, and nationally norm-referenced assessment
6-37 instruments used by colleges and universities as part of their
6-38 undergraduate admissions processes more than once.

6-39 SECTION 11. Subchapter B, Chapter 39, Education Code, is
6-40 amended by adding Sections 39.0301, 39.0302, and 39.0303 to read as
6-41 follows:

6-42 Sec. 39.0301. SECURITY IN ADMINISTRATION OF ASSESSMENT
6-43 INSTRUMENTS. (a) The commissioner:

6-44 (1) shall establish procedures for the administration
6-45 of assessment instruments adopted or developed under Section
6-46 39.023, including procedures designed to ensure the security of the
6-47 assessment instruments; and

6-48 (2) may establish record retention requirements for
6-49 school district records related to the security of assessment
6-50 instruments.

6-51 (b) The commissioner may develop and implement statistical
6-52 methods and standards for identifying potential violations of
6-53 procedures established under Subsection (a) to ensure the security
6-54 of assessment instruments adopted or developed under Section
6-55 39.023. In developing the statistical methods and standards, the
6-56 commissioner may include indicators of:

6-57 (1) potential violations that are monitored annually;
6-58 and

6-59 (2) patterns of inappropriate assessment practices
6-60 that occur over time.

6-61 (c) The commissioner may establish one or more advisory
6-62 committees to advise the commissioner and agency regarding the
6-63 monitoring of assessment practices and the use of statistical
6-64 methods and standards for identifying potential violations of
6-65 assessment instrument security, including standards to be
6-66 established by the commissioner for selecting school districts for
6-67 investigation for a potential assessment security violation under
6-68 Subsection (e). The commissioner may not appoint an agency
6-69 employee to an advisory committee established under this

7-1 subsection.

7-2 (d) Any document created for the deliberation of an advisory
7-3 committee established under Subsection (c) or any recommendation of
7-4 such a committee is confidential and not subject to disclosure
7-5 under Chapter 552, Government Code. Except as provided by
7-6 Subsection (e), the statistical methods and standards adopted under
7-7 this section and the results of applying those methods and
7-8 standards are confidential and not subject to disclosure under
7-9 Chapter 552, Government Code.

7-10 (e) The agency may conduct an investigation of a school
7-11 district for a potential violation of assessment instrument
7-12 security in accordance with the standards described by Subsection
7-13 (c). Each school year, after completing all investigations of
7-14 school districts selected for investigation, the agency shall
7-15 disclose the identity of each district selected for investigation
7-16 and the statistical methods and standards used to select the
7-17 district.

7-18 (f) At any time, the commissioner may authorize the audit of
7-19 a random sample of school districts to determine the compliance of
7-20 the districts with procedures established under Subsection (a).
7-21 The identity of each school district selected for audit under this
7-22 subsection is confidential and not subject to disclosure under
7-23 Chapter 552, Government Code, except that the agency shall disclose
7-24 the identity of each district after completion of the audit.

7-25 Sec. 39.0302. ISSUANCE OF SUBPOENAS. (a) During an agency
7-26 investigation or audit of a school district under Section
7-27 39.0301(e) or (f), an accreditation investigation under Section
7-28 39.075(a)(8), or an investigation by the State Board for Educator
7-29 Certification of an educator for an alleged violation of an
7-30 assessment instrument security procedure established under Section
7-31 39.0301(a), the commissioner may issue a subpoena to compel the
7-32 attendance of a relevant witness or the production, for inspection
7-33 or copying, of relevant evidence that is located in this state.

7-34 (b) A subpoena may be served personally or by certified
7-35 mail.

7-36 (c) If a person fails to comply with a subpoena, the
7-37 commissioner, acting through the attorney general, may file suit to
7-38 enforce the subpoena in a district court in this state. On finding
7-39 that good cause exists for issuing the subpoena, the court shall
7-40 order the person to comply with the subpoena. The court may punish
7-41 a person who fails to obey the court order.

7-42 (d) All information and materials subpoenaed or compiled in
7-43 connection with an investigation or audit described by Subsection
7-44 (a):

7-45 (1) are confidential and not subject to disclosure
7-46 under Chapter 552, Government Code; and

7-47 (2) are not subject to disclosure, discovery,
7-48 subpoena, or other means of legal compulsion for release to any
7-49 person other than:

7-50 (A) the commissioner or the State Board for
7-51 Educator Certification, as applicable;

7-52 (B) agency employees or agents involved in the
7-53 investigation, as applicable; and

7-54 (C) the office of the attorney general, the state
7-55 auditor's office, and law enforcement agencies.

7-56 Sec. 39.0303. SECURE ASSESSMENT INSTRUMENTS; CRIMINAL
7-57 PENALTY. (a) A person commits an offense if:

7-58 (1) the person discloses the contents of any portion
7-59 of a secure assessment instrument developed or administered under
7-60 this subchapter, including the answer to any item in the assessment
7-61 instrument; and

7-62 (2) the disclosure affects or is likely to affect the
7-63 individual performance of one or more students on the assessment
7-64 instrument.

7-65 (b) An offense under this section is a Class C misdemeanor.

7-66 SECTION 12. Subsection (d), Section 39.034, Education Code,
7-67 is amended to read as follows:

7-68 (d) The agency shall determine the necessary annual
7-69 improvement required each year for a student to be prepared to

8-1 perform satisfactorily on ~~[pass]~~ the end-of-course assessment
 8-2 instruments ~~[exit-level assessment instrument]~~ required under this
 8-3 subchapter for graduation. The agency shall report the necessary
 8-4 annual improvement required to the district. Each year, the report
 8-5 must state whether the student fell below, met, or exceeded the
 8-6 necessary target for improvement.

8-7 SECTION 13. Subsection (b), Section 39.051, Education Code,
 8-8 is amended to read as follows:

8-9 (b) Performance on the indicators adopted under this
 8-10 section shall be compared to state-established standards. The
 8-11 degree of change from one school year to the next in performance on
 8-12 each indicator adopted under this section shall also be considered.
 8-13 The indicators must be based on information that is disaggregated
 8-14 by race, ethnicity, gender, and socioeconomic status and must
 8-15 include:

8-16 (1) the results of assessment instruments required
 8-17 under Sections 39.023(a), (c), and (1), aggregated by grade level
 8-18 and subject area;

8-19 (2) dropout rates, including dropout rates and
 8-20 district completion rates for grade levels 9 through 12, computed
 8-21 in accordance with standards and definitions adopted by the
 8-22 National Center for Education Statistics of the United States
 8-23 Department of Education;

8-24 (3) high school graduation rates, computed in
 8-25 accordance with standards and definitions adopted in compliance
 8-26 with the No Child Left Behind Act of 2001 (Pub. L. No. 107-110);

8-27 (4) student attendance rates;

8-28 (5) the percentage of graduating students who attain
 8-29 scores on the optional questions developed for end-of-course
 8-30 [secondary exit-level] assessment instruments under Section
 8-31 39.0233 [required under Subchapter B] that are equivalent to a
 8-32 passing score on the assessment instrument required under Section
 8-33 51.3062;

8-34 (6) the percentage of graduating students who meet the
 8-35 course requirements established for the recommended high school
 8-36 program by State Board of Education rule;

8-37 (7) the results of the Scholastic Assessment Test
 8-38 (SAT), the American College Test (ACT), articulated postsecondary
 8-39 degree programs described by Section 61.852, and certified
 8-40 workforce training programs described by Chapter 311, Labor Code;

8-41 (8) the percentage of students, aggregated by grade
 8-42 level, provided accelerated instruction under Section 28.0211(c),
 8-43 the results of assessments administered under that section, the
 8-44 percentage of students promoted through the grade placement
 8-45 committee process under Section 28.0211, the subject of the
 8-46 assessment instrument on which each student failed to perform
 8-47 satisfactorily, and the performance of those students in the school
 8-48 year following that promotion on the assessment instruments
 8-49 required under Section 39.023;

8-50 (9) for students who have failed to perform
 8-51 satisfactorily on an assessment instrument required under Section
 8-52 39.023(a) or (c), the numerical progress of those students grouped
 8-53 by percentage on subsequent assessment instruments required under
 8-54 those sections, aggregated by grade level and subject area;

8-55 (10) the percentage of students exempted, by exemption
 8-56 category, from the assessment program generally applicable under
 8-57 this chapter;

8-58 (11) the percentage of students of limited English
 8-59 proficiency exempted from the administration of an assessment
 8-60 instrument under Sections 39.027(a)(3) and (4);

8-61 (12) the percentage of students in a special education
 8-62 program under Subchapter A, Chapter 29, assessed through assessment
 8-63 instruments developed or adopted under Section 39.023(b);

8-64 (13) the measure of progress toward preparation for
 8-65 postsecondary success; and

8-66 (14) the measure of progress toward dual language
 8-67 proficiency under Section 39.034(b), for students of limited
 8-68 English proficiency, as defined by Section 29.052.

8-69 SECTION 14. Subsection (a), Section 39.075, Education Code,

9-1 is amended to read as follows:

9-2 (a) The commissioner shall authorize special accreditation
9-3 investigations to be conducted:

9-4 (1) when excessive numbers of absences of students
9-5 eligible to be tested on state assessment instruments are
9-6 determined;

9-7 (2) when excessive numbers of allowable exemptions
9-8 from the required state assessment instruments are determined;

9-9 (3) in response to complaints submitted to the agency
9-10 with respect to alleged violations of civil rights or other
9-11 requirements imposed on the state by federal law or court order;

9-12 (4) in response to established compliance reviews of
9-13 the district's financial accounting practices and state and federal
9-14 program requirements;

9-15 (5) when extraordinary numbers of student placements
9-16 in disciplinary alternative education programs, other than
9-17 placements under Sections 37.006 and 37.007, are determined;

9-18 (6) in response to an allegation involving a conflict
9-19 between members of the board of trustees or between the board and
9-20 the district administration if it appears that the conflict
9-21 involves a violation of a role or duty of the board members or the
9-22 administration clearly defined by this code;

9-23 (7) when excessive numbers of students in special
9-24 education programs under Subchapter A, Chapter 29, are assessed
9-25 through assessment instruments developed or adopted under Section
9-26 39.023(b); ~~or~~

9-27 (8) in response to an allegation regarding or an
9-28 analysis using a statistical method result indicating a possible
9-29 violation of an assessment instrument security procedure
9-30 established under Section 39.0301, including for the purpose of
9-31 investigating or auditing a school district under that section; or

9-32 (9) as the commissioner otherwise determines necessary.

9-33 SECTION 15. Subsection (q), Section 51.3062, Education
9-34 Code, is amended to read as follows:

9-35 (q) A student who has achieved scores ~~[a score]~~ set by the
9-36 board on the optional questions developed for end-of-course
9-37 assessment instruments ~~[an exit-level assessment instrument~~
9-38 ~~required]~~ under Section 39.0233 ~~[39.023]~~ is exempt from the
9-39 requirements of this section. The exemption is effective for the
9-40 three-year period following the date a student takes the last
9-41 assessment instrument for purposes of this section and achieves the
9-42 standard set by the board. This subsection does not apply during
9-43 any period for which the board designates the optional questions
9-44 developed for end-of-course assessment instruments ~~[exit-level~~
9-45 ~~assessment instrument required]~~ under Section 39.0233 ~~[39.023]~~ as
9-46 the primary assessment instrument under this section, except that
9-47 the three-year period described by this subsection remains in
9-48 effect for students who qualify for an exemption under this
9-49 subsection ~~[section]~~ before that period.

9-50 SECTION 16. Subsection (j), Section 39.023, Education Code,
9-51 is repealed.

9-52 SECTION 17. A reference in the Education Code to an
9-53 end-of-course assessment instrument administered under Subsection
9-54 (c), Section 39.023, Education Code, includes an exit-level
9-55 assessment instrument administered under that section as provided
9-56 by Subsection (f), Section 39.025, Education Code, as added by this
9-57 Act.

9-58 SECTION 18. (a) Except as otherwise provided by this Act,
9-59 this Act applies beginning with the 2007-2008 school year.

9-60 (b) Beginning with the 2007-2008 school year, the
9-61 commissioner of education may conduct random audits as authorized
9-62 under Subsection (f), Section 39.0301, Education Code, as added by
9-63 this Act. Beginning with the 2008-2009 school year, the
9-64 commissioner of education may conduct accreditation investigations
9-65 as authorized under Subdivision (8), Subsection (a), Section
9-66 39.075, Education Code, as added by this Act.

9-67 (c) During the 2008-2009 school year, the commissioner of
9-68 education may use the statistical methods and standards established
9-69 under Subsection (b), Section 39.0301, Education Code, as added by

10-1 this Act, on a pilot basis to test the accuracy and predictive
10-2 validity of the methods and standards. Pilot statistical methods
10-3 and standards developed for use in the 2008-2009 school year are
10-4 confidential and not subject to disclosure under Chapter 552,
10-5 Government Code. Without releasing the pilot statistical methods,
10-6 the commissioner of education shall release the results of any
10-7 investigation conducted on the basis of those methods during the
10-8 2008-2009 school year on completion of the investigation.

10-9 SECTION 19. This Act takes effect September 1, 2007.

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