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H.B. No. 515

A BILL TO BE ENTITLED

AN ACT

relating to assessment of public school students and providing
accelerated instruction and eliminating performance requirements
based on performance on certain assessment instruments.

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

SECTION 1. The heading to Section 28.0211, Education Code,
is amended to read as follows:

Sec. 28.0211. ACCELERATED LEARNING COMMITTEE [~~SATISFACTORY
PERFORMANCE ON ASSESSMENT INSTRUMENTS REQUIRED~~]; ACCELERATED
INSTRUCTION.

SECTION 2. Section 28.0211, Education Code, is amended by
amending Subsections (a), (a-1), (a-3), (c), (f), (i), (k), and (n)
and adding Subsections (f-1) and (f-2) to read as follows:

(a) A district shall establish an accelerated learning
committee described by Subsection (c) for each student who does not
perform satisfactorily on:

(1) the third grade mathematics or reading assessment
instrument under Section 39.023;

(2) [Except as provided by Subsection (b) or (c), a
student may not be promoted to:

[(1) the sixth grade program to which the student
would otherwise be assigned if the student does not perform
satisfactorily on] the fifth grade mathematics or [and] reading
assessment instrument [~~instruments~~] under Section 39.023; or

1 (3) [~~(2)~~ the ninth grade program to which the student
2 would otherwise be assigned if the student does not perform
3 satisfactorily on] the eighth grade mathematics or [~~and~~] reading
4 assessment instrument [~~instruments~~] under Section 39.023.

5 (a-1) Each time a student fails to perform satisfactorily on
6 an assessment instrument administered under Section 39.023(a) in
7 the third, fourth, fifth, sixth, seventh, or eighth grade, the
8 school district in which the student attends school shall provide
9 to the student accelerated instruction in the applicable subject
10 area. Accelerated instruction may require participation of the
11 student before or after normal school hours, [~~and~~] may include
12 participation at times of the year outside normal school
13 operations, and may be provided to the student during the
14 subsequent school year.

15 (a-3) The commissioner shall provide guidelines to
16 districts on research-based best practices and effective
17 strategies that a district may use in developing an accelerated
18 instruction program. The commissioner may provide to districts
19 available resources concerning research-based best practices and
20 effective strategies that a district may use in developing an
21 accelerated instruction program.

22 (c) [~~Each time a student fails to perform satisfactorily on~~
23 ~~an assessment instrument specified under Subsection (a), the school~~
24 ~~district in which the student attends school shall provide to the~~
25 ~~student accelerated instruction in the applicable subject area,~~
26 ~~including reading instruction for a student who fails to perform~~
27 ~~satisfactorily on a reading assessment instrument.] After a~~

1 student fails to perform satisfactorily on an assessment instrument
2 specified under Subsection (a) [~~a second time~~], an accelerated
3 learning [~~a grade placement~~] committee shall be established [~~to~~
4 ~~prescribe the accelerated instruction the district shall provide to~~
5 ~~the student before the student is administered the assessment~~
6 ~~instrument the third time~~]. The accelerated learning [~~grade~~
7 ~~placement~~] committee shall be composed of the principal or the
8 principal's designee, the student's parent or guardian, and the
9 teacher of the subject of an assessment instrument on which the
10 student failed to perform satisfactorily. The district shall
11 notify the parent or guardian of the time and place for convening
12 the accelerated learning [~~grade placement~~] committee and the
13 purpose of the committee. [~~An accelerated instruction group~~
14 ~~administered by a school district under this section may not have a~~
15 ~~ratio of more than 10 students for each teacher.~~]

16 (f) An accelerated learning [~~A school district shall~~
17 ~~provide to a student who, after three attempts, has failed to~~
18 ~~perform satisfactorily on an assessment instrument specified under~~
19 ~~Subsection (a) accelerated instruction during the next school year~~
20 ~~as prescribed by an educational plan developed for the student by~~
21 ~~the student's grade placement~~] committee described by [~~established~~
22 ~~under~~] Subsection (c) shall:

23 (1) develop an educational plan for the student that
24 provides the necessary accelerated instruction for the student to
25 achieve appropriate grade level performance; and

26 (2) provide other assistance to the student in
27 accordance with a policy adopted by the district board of trustees

1 prescribing the role of accelerated learning committees in that
2 district. [~~The district shall provide that accelerated instruction~~
3 ~~regardless of whether the student has been promoted or retained.~~]

4 (f-1) The educational plan developed under Subsection
5 (f)(1) must be designed to enable the student to perform at the
6 appropriate grade level by the conclusion of the subsequent school
7 year. During the school year, the student shall be monitored to
8 ensure that the student is progressing in accordance with the plan.
9 The district shall administer to the student the assessment
10 instrument for the grade level in which the student is placed at the
11 time the district regularly administers the assessment instruments
12 for that school year.

13 (f-2) If a student who fails to perform satisfactorily on an
14 assessment instrument specified under Subsection (a) fails in the
15 subsequent school year to perform satisfactorily on an assessment
16 instrument in the same subject, the superintendent of the district
17 or the superintendent's designee shall meet with the student's
18 accelerated learning committee to:

19 (1) identify the reason the student did not perform
20 satisfactorily; and

21 (2) determine, in order to ensure the student performs
22 satisfactorily on the assessment instrument at the next opportunity
23 for the student to be administered the assessment instrument,
24 whether:

25 (A) the educational plan developed for the
26 student under Subsection (f) must be modified to provide the
27 necessary accelerated instruction for that student; and

1 (B) any additional resources are required for
2 that student.

3 (i) The admission, review, and dismissal committee of a
4 student who participates in a district's special education program
5 under Subchapter A [~~B~~], Chapter 29, and who does not perform
6 satisfactorily on an assessment instrument specified under
7 Subsection (a) and administered under Section 39.023(a) or (b)
8 shall determine[+]

9 [~~(1)~~] the manner in which the student will participate
10 in an accelerated instruction program under this section[+, and

11 [~~(2) whether the student will be promoted or retained~~
12 ~~under this section]~~.

13 (k) The commissioner shall adopt rules as necessary to
14 implement this section[~~, including rules concerning when school~~
15 ~~districts shall administer assessment instruments required under~~
16 ~~this section and which administration of the assessment instruments~~
17 ~~will be used for purposes of Section 39.054]~~.

18 (n) A student who fails to perform satisfactorily on an
19 assessment instrument specified under Subsection (a) and is
20 promoted to the next grade level [~~by a grade placement committee~~
21 ~~under this section]~~ must be assigned at that next grade level in
22 each subject in which the student failed to perform satisfactorily
23 on an assessment instrument specified under Subsection (a) to a
24 teacher who meets all state and federal qualifications to teach
25 that subject and grade.

26 SECTION 3. Section 28.025(c), Education Code, is amended to
27 read as follows:

1 (c) A person may receive a diploma if the person is eligible
2 for a diploma under Section 28.0251. In other cases, a student may
3 graduate and receive a diploma only if:

4 (1) the student successfully completes the curriculum
5 requirements identified by the State Board of Education under
6 Subsection (a) and complies with Sections 39.02304 and [Section]
7 39.025; or

8 (2) the student successfully completes an
9 individualized education program developed under Section 29.005.

10 SECTION 4. Section 39.023(a), Education Code, as effective
11 September 1, 2017, is amended to read as follows:

12 (a) The agency shall adopt or develop appropriate
13 criterion-referenced assessment instruments designed to assess
14 essential knowledge and skills in reading, writing, mathematics,
15 ~~[social studies,~~ and science. Except as provided by Subsection
16 (a-2), all students, other than students assessed under Subsection
17 (b) or (1) or exempted under Section 39.027, shall be assessed in:

18 (1) mathematics, annually in grades three through
19 seven without the aid of technology and in grade eight with the aid
20 of technology on any assessment instrument that includes algebra;

21 (2) reading, annually in grades three through eight;

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

24 ~~(4) [social studies, in grade eight,~~

25 ~~[(5)] science, in grades five and eight[, and~~

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

1 SECTION 5. Section 39.023(c), Education Code, is amended to
2 read as follows:

3 (c) The agency shall also adopt end-of-course assessment
4 instruments for secondary-level courses in Algebra I, biology,
5 English I, and English II[~~, and United States history~~]. The
6 Algebra I end-of-course assessment instrument must be administered
7 with the aid of technology. The English I and English II
8 end-of-course assessment instruments must each assess essential
9 knowledge and skills in both reading and writing in the same
10 assessment instrument and must provide a single score. A school
11 district shall comply with State Board of Education rules regarding
12 administration of the assessment instruments listed in this
13 subsection. If a student is in a special education program under
14 Subchapter A, Chapter 29, the student's admission, review, and
15 dismissal committee shall determine whether any allowable
16 modification is necessary in administering to the student an
17 assessment instrument required under this subsection. The agency
18 [~~State Board of Education~~] shall administer the assessment
19 instruments. The commissioner, with input from school districts,
20 [~~State Board of Education~~] shall adopt a schedule for the
21 administration of end-of-course assessment instruments that
22 complies with the requirements of Subsection (c-3).

23 SECTION 6. Section 39.023(c-3), Education Code, effective
24 September 1, 2017, is amended to read as follows:

25 (c-3) The commissioner, with input from school districts,
26 shall adopt [~~In adopting~~] a schedule for the administration of
27 assessment instruments under this section that[~~, the State Board of~~

1 ~~Education shall require]:~~

2 (1) minimizes the disruption of classroom instruction
3 ~~[assessment instruments administered under Subsection (a) to be~~
4 ~~administered on a schedule so that the first assessment instrument~~
5 ~~is administered at least two weeks later than the date on which the~~
6 ~~first assessment instrument was administered under Subsection (a)~~
7 ~~during the 2006-2007 school year]; and~~

8 (2) maximizes available instruction time by
9 scheduling the spring administration of ~~[end-of-course]~~ assessment
10 instruments ~~[under Subsection (c)]~~ to occur as close to the end of
11 the semester as possible ~~[in each school district not earlier than~~
12 ~~the first full week in May, except that the spring administration of~~
13 ~~the end-of-course assessment instruments in English I and English~~
14 ~~II must be permitted to occur at an earlier date].~~

15 SECTION 7. Section 39.023(e), Education Code, as effective
16 September 1, 2017, is amended to read as follows:

17 (e) At least ~~[Under rules adopted by the State Board of~~
18 ~~Education,~~] every third year, the agency shall release the
19 questions and answer keys to each assessment instrument
20 administered under Subsection (a), (b), (c), (d), or (l), excluding
21 any assessment instrument administered to a student for the purpose
22 of retaking the assessment instrument, after the last time the
23 instrument is administered for that school year. To ensure a valid
24 bank of questions for use each year, the agency is not required to
25 release a question that is being field-tested and was not used to
26 compute the student's score on the instrument. The agency shall
27 also release~~[, under board rule,~~] each question that is no longer

1 being field-tested and that was not used to compute a student's
2 score. [~~During the 2014-2015 and 2015-2016 school years, the~~
3 ~~agency shall release the questions and answer keys to assessment~~
4 ~~instruments as described by this subsection each year.~~]

5 SECTION 8. Section 39.02301, Education Code, is amended by
6 amending Subsections (a), (b), (h), and (j) and adding Subsection
7 (k) to read as follows:

8 (a) The [~~During the 2015-2016 school year, the~~] agency, in
9 coordination with the entity that has been contracted to develop or
10 implement assessment instruments under Section 39.023, shall
11 conduct a study to develop a writing assessment method as an
12 alternative to the writing assessment instruments required under
13 Sections 39.023(a) and (c). The writing assessment method must be
14 designed to assess:

15 (1) a student's mastery of the essential knowledge and
16 skills in writing through timed writing samples;

17 (2) improvement of a student's writing skills from the
18 beginning of the school year to the end of the school year;

19 (3) a student's ability to follow the writing process
20 from rough draft to final product; and

21 (4) a student's ability to produce more than one type
22 of writing style.

23 (b) The [~~During the 2016-2017 and 2017-2018 school years,~~
24 ~~the~~] agency shall establish a pilot program as provided by this
25 section to implement in designated school districts the writing
26 assessment method developed under Subsection (a).

27 (h) [~~Not later than September 1, 2016, the agency shall~~

1 ~~prepare and deliver to the governor, the lieutenant governor, the~~
2 ~~speaker of the house of representatives, and the presiding officer~~
3 ~~of each legislative standing committee with primary jurisdiction~~
4 ~~over primary and secondary education a report covering the study of~~
5 ~~the development of the writing assessment method under Subsection~~
6 ~~(a).]~~ Not later than September 1 of each even-numbered year [~~in~~
7 ~~2017 and 2018~~], the agency shall prepare and deliver to the
8 governor, the lieutenant governor, the speaker of the house of
9 representatives, and the presiding officer of each legislative
10 standing committee with primary jurisdiction over primary and
11 secondary education a report that:

12 (1) evaluates the implementation and progress of the
13 pilot program under this section; and

14 (2) makes recommendations regarding the continuation
15 or expansion of the pilot program.

16 (j) Not later than September 1, 2021, the agency, with input
17 from school districts participating in the pilot program, shall
18 modify the method for assessing students in writing in grades four
19 and seven and in English I and English II secondary-level courses,
20 based on the writing assessment method developed under this
21 section.

22 (k) This section expires September 1, 2021 [~~2019~~].

23 SECTION 9. Subchapter B, Chapter 39, Education Code, is
24 amended by adding Section 39.02304 to read as follows:

25 Sec. 39.02304. CIVICS TEST. (a) The commissioner shall
26 adopt rules requiring a school district to administer a civics test
27 to a student in the foundation high school program under Section

1 28.025. A student may not receive a high school diploma until the
2 student has performed satisfactorily on the civics test.

3 (b) The civics test must consist of all of the questions on
4 the civics test administered by the United States Citizenship and
5 Immigration Services as part of the naturalization process under
6 the federal Immigration and Nationality Act (8 U.S.C. Section 1101
7 et seq.). The questions must be presented in a multiple-choice
8 format.

9 (c) To perform satisfactorily on the civics test, a student
10 must answer at least 70 percent of the questions correctly.

11 (d) A school district shall administer the civics test to a
12 student when the school counselor or the teacher of the United
13 States history course in which the student is enrolled, if
14 applicable, determines that the student is prepared for the test.

15 (e) The admission, review, and dismissal committee of a
16 student in a special education program under Subchapter A, Chapter
17 29, shall determine:

18 (1) whether any allowable modification is necessary in
19 administering the civics test to the student to appropriately
20 measure the student's achievement; and

21 (2) if the committee determines that the civics test,
22 even with allowable modifications, would not provide an appropriate
23 measure of the student's achievement, whether the student is
24 required to achieve satisfactory performance on the civics test to
25 receive a high school diploma.

26 (f) The commissioner shall adopt rules regarding the
27 administration of the civics test. The rules:

1 (1) must require:

2 (A) the test to be administered electronically in
3 the presence of a teacher, teacher's aide, proctor, or campus
4 testing coordinator and be scored by that person or by the school
5 district; and

6 (B) the results of the test to be submitted to the
7 agency not later than the last instructional day of the school year
8 in which the test is administered; and

9 (2) may not:

10 (A) restrict the high school grade level at which
11 a student may take the civics test; or

12 (B) limit the number of attempts a student may
13 make to perform satisfactorily on the test.

14 (g) For purposes of the public school accountability
15 system, a reference in this code to an assessment instrument under
16 Section 39.023(c) includes the civics test. Performance at the
17 level required under Subsection (c) of this section is considered
18 satisfactory performance for purposes of Section 39.0241(a), and
19 the commissioner shall determine the level of performance
20 considered to indicate college readiness for purposes of Section
21 39.0241(a-1). To the extent of a conflict between this section and
22 any other provision of law, this section controls.

23 SECTION 10. Section 39.025, Education Code, is amended by
24 amending Subsections (c-1) and (f) and adding Subsection (f-1) to
25 read as follows:

26 (c-1) A school district may not administer a general subject
27 ~~[an]~~ assessment instrument required for graduation administered

1 under this section as this section existed before September 1, 2007
2 [~~1999~~]. A school district may administer to a student who failed to
3 perform satisfactorily on an assessment instrument described by
4 this subsection an alternate assessment instrument designated by
5 the commissioner. The commissioner shall determine the level of
6 performance considered to be satisfactory on an alternate
7 assessment instrument. [~~The district may not administer to the~~
8 ~~student an assessment instrument or a part of an assessment~~
9 ~~instrument that assesses a subject that was not assessed in an~~
10 ~~assessment instrument required for graduation administered under~~
11 ~~this section as this section existed before September 1, 1999.~~] The
12 commissioner shall make available to districts information
13 necessary to administer the alternate assessment instrument
14 authorized by this subsection. The commissioner's determination
15 regarding designation of an appropriate alternate assessment
16 instrument under this subsection and the performance required on
17 the assessment instrument is final and may not be appealed.

18 (f) The commissioner shall by rule adopt a transition plan
19 to implement the amendments made by Chapter 1312 (S.B. No. 1031),
20 Acts of the 80th Legislature, Regular Session, 2007, replacing
21 general subject assessment instruments administered at the high
22 school level with end-of-course assessment instruments. The rules
23 must provide for the end-of-course assessment instruments adopted
24 under Section [39.023](#)(c) to be administered beginning with students
25 enrolled in [~~entering~~] the ninth grade for the first time during the
26 2011-2012 school year. During the period under which the
27 transition to end-of-course assessment instruments is made:

1 (1) for students entering a grade above the ninth
2 grade during the 2011-2012 school year, the commissioner shall
3 retain, administer, and use for purposes of accreditation and other
4 campus and district accountability measures under this chapter the
5 assessment instruments required by Section 39.023(a) or (c), as
6 that section existed before amendment by Chapter 1312 (S.B.
7 No. 1031), Acts of the 80th Legislature, Regular Session, 2007; and

8 (2) a student subject to Subdivision (1) may not
9 receive a high school diploma unless the student has performed
10 satisfactorily, as determined by the commissioner under Subsection
11 (f-1), on the SAT, the ACT, or the Texas Success Initiative (TSI)
12 diagnostic assessment [each required assessment instrument
13 administered under Section 39.023(c) as that section existed before
14 amendment by Chapter 1312 (S.B. No. 1031), Acts of the 80th
15 Legislature, Regular Session, 2007].

16 (f-1) The commissioner shall determine the level of
17 performance considered to be satisfactory on the SAT, the ACT, and
18 the Texas Success Initiative (TSI) diagnostic assessment for a
19 student described by Subsection (f)(1) to qualify for a high school
20 diploma. In determining satisfactory performance, the
21 commissioner shall ensure that the level of performance determined
22 under this subsection as satisfactory is equivalent to the level of
23 performance required under Subsection (a) for satisfactory
24 performance on an end-of-course assessment instrument.
25 Notwithstanding Subsection (f), the commissioner is not required to
26 retain, administer, or use assessment instruments described by
27 Subsection (f)(1) after September 1, 2017.

1 SECTION 11. Section 39.203(c), Education Code, is amended
2 to read as follows:

3 (c) In addition to the distinction designations described
4 by Subsections (a) and (b), a campus that satisfies the criteria
5 developed under Section 39.204 shall be awarded a distinction
6 designation by the commissioner for outstanding performance
7 in academic achievement in reading [~~English language arts~~],
8 mathematics, or science [~~, or social studies~~].

9 SECTION 12. Section 39.301(c), Education Code, is amended
10 to read as follows:

11 (c) Indicators for reporting purposes must include:

12 (1) the percentage of graduating students who meet the
13 course requirements established by State Board of Education rule
14 for:

15 (A) the foundation high school program;

16 (B) the distinguished level of achievement under
17 the foundation high school program; and

18 (C) each endorsement described by Section
19 28.025(c-1);

20 (2) the results of the SAT, ACT, articulated
21 postsecondary degree programs described by Section 61.852, and
22 certified workforce training programs described by Chapter 311,
23 Labor Code;

24 (3) for students who have failed to perform
25 satisfactorily, under each performance standard under Section
26 39.0241, on an assessment instrument required under Section
27 39.023(a) or (c), the performance of those students on subsequent

1 assessment instruments required under those sections, aggregated
2 by grade level and subject area;

3 (4) for each campus, the number of students,
4 disaggregated by major student subpopulations, that take courses
5 under the foundation high school program and take additional
6 courses to earn an endorsement under Section 28.025(c-1),
7 disaggregated by type of endorsement;

8 (5) the percentage of students, aggregated by grade
9 level, provided accelerated instruction under Section 28.0211
10 [~~28.0211(c)~~], the results of assessment instruments administered
11 under that section, [~~the percentage of students promoted through~~
12 ~~the grade placement committee process under Section 28.0211,~~] the
13 subject of the assessment instrument on which each student failed
14 to perform satisfactorily under each performance standard under
15 Section 39.0241, and the performance of those students in the
16 subsequent school year [~~following that promotion~~] on the assessment
17 instruments required under Section 39.023;

18 (6) the percentage of students of limited English
19 proficiency exempted from the administration of an assessment
20 instrument under Sections 39.027(a)(1) and (2);

21 (7) 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 (8) the percentage of students who satisfy the college
25 readiness measure;

26 (9) 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 (10) the percentage of students who are not
3 educationally disadvantaged;

4 (11) the percentage of students who enroll and begin
5 instruction at an institution of higher education in the school
6 year following high school graduation; and

7 (12) the percentage of students who successfully
8 complete the first year of instruction at an institution of higher
9 education without needing a developmental education course.

10 SECTION 13. Section 51.3062(q-1), Education Code, is
11 amended to read as follows:

12 (q-1) A student who has demonstrated the performance
13 standard for college readiness as provided by Section 28.008 on the
14 postsecondary readiness assessment instruments adopted under
15 Section 39.0238 for Algebra II and English III, as that section
16 existed before repeal by H.B. 515, Acts of the 85th Legislature,
17 Regular Session, 2017, is exempt from the requirements of this
18 section with respect to those content areas. The commissioner of
19 higher education by rule shall establish the period for which an
20 exemption under this subsection is valid.

21 SECTION 14. The following provisions of the Education Code
22 are repealed:

23 (1) Section 7.102(c)(5);

24 (2) Sections 28.0211(a-2), (b), (d), (e), (m), and
25 (m-1); and

26 (3) Section 39.0238.

27 SECTION 15. (a) Except as provided by Subsection (b) of

1 this section, this Act applies beginning with the 2017-2018 school
2 year.

3 (b) Section 28.025(c), Education Code, as amended by this
4 Act, and Section 39.02304, Education Code, as added by this Act,
5 apply beginning with students who enter the ninth grade during the
6 2018-2019 school year.

7 SECTION 16. This Act takes effect immediately if it
8 receives a vote of two-thirds of all the members elected to each
9 house, as provided by Section 39, Article III, Texas Constitution.
10 If this Act does not receive the vote necessary for immediate
11 effect, this Act takes effect September 1, 2017.