

By: VanDeaver, Isaac, Deshotel, Ashby,
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H.B. No. 515

Substitute the following for H.B. No. 515:

By: VanDeaver

C.S.H.B. No. 515

A BILL TO BE ENTITLED

1 AN ACT
2 relating to assessment of public school students and providing
3 accelerated instruction and eliminating performance requirements
4 based on performance on certain assessment instruments.

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

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

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

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

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

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

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

21 [~~(1) the sixth grade program to which the student~~
22 ~~would otherwise be assigned if the student does not perform~~
23 ~~satisfactorily on] the fifth grade mathematics or [~~and~~] reading
24 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 (i) The admission, review, and dismissal committee of a
14 student who participates in a district's special education program
15 under Subchapter A [~~B~~], Chapter 29, and who does not perform
16 satisfactorily on an assessment instrument specified under
17 Subsection (a) and administered under Section 39.023(a) or (b)
18 shall determine[+]

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

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

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

1 (n) A student who fails to perform satisfactorily on an
2 assessment instrument specified under Subsection (a) and is
3 promoted to the next grade level [~~by a grade placement committee~~
4 ~~under this section~~] must be assigned at that next grade level in
5 each subject in which the student failed to perform satisfactorily
6 on an assessment instrument specified under Subsection (a) to a
7 teacher who meets all state and federal qualifications to teach
8 that subject and grade.

9 SECTION 3. Section 39.023(a), Education Code, as effective
10 September 1, 2017, is amended to read as follows:

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

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

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

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

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

24 [~~5~~] science, in grades five and eight [~~, and~~

25 [~~6~~] ~~any other subject and grade required by federal~~
26 ~~law~~].

27 SECTION 4. Section 39.023(c), Education Code, is amended to

1 read as follows:

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

22 SECTION 5. Section 39.023(c-3), Education Code, effective
23 September 1, 2017, is amended to read as follows:

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

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

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

14 SECTION 6. Section [39.02301](#), Education Code, is amended by
15 amending Subsections (a), (b), (h), and (j) and adding Subsection
16 (k) to read as follows:

17 (a) The ~~[During the 2015-2016 school year, the]~~ agency, in
18 coordination with the entity that has been contracted to develop or
19 implement assessment instruments under Section [39.023](#), shall
20 conduct a study to develop a writing assessment method as an
21 alternative to the writing assessment instruments required under
22 Sections [39.023](#)(a) and (c). The writing assessment method must be
23 designed to assess:

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

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

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

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

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

9 (h) [~~Not later than September 1, 2016, the agency shall~~
10 ~~prepare and deliver to the governor, the lieutenant governor, the~~
11 ~~speaker of the house of representatives, and the presiding officer~~
12 ~~of each legislative standing committee with primary jurisdiction~~
13 ~~over primary and secondary education a report covering the study of~~
14 ~~the development of the writing assessment method under Subsection~~
15 ~~(a).~~] Not later than September 1 of each even-numbered year [~~in~~
16 ~~2017 and 2018~~], the agency shall prepare and deliver to the
17 governor, the lieutenant governor, the speaker of the house of
18 representatives, and the presiding officer of each legislative
19 standing committee with primary jurisdiction over primary and
20 secondary education a report that:

21 (1) evaluates the implementation and progress of the
22 pilot program under this section; and

23 (2) makes recommendations regarding the continuation
24 or expansion of the pilot program.

25 (j) Not later than September 1, 2021, the agency shall
26 modify the method for assessing students in grades four and seven in
27 writing based on the writing assessment method developed under this

1 section.

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

3 SECTION 7. Section 39.025, Education Code, is amended by
4 amending Subsections (c-1) and (f) and adding Subsection (f-1) to
5 read as follows:

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

25 (f) The commissioner shall by rule adopt a transition plan
26 to implement the amendments made by Chapter 1312 (S.B. No. 1031),
27 Acts of the 80th Legislature, Regular Session, 2007, replacing

1 general subject assessment instruments administered at the high
2 school level with end-of-course assessment instruments. The rules
3 must provide for the end-of-course assessment instruments adopted
4 under Section 39.023(c) to be administered beginning with students
5 enrolled in [entering] the ninth grade for the first time during the
6 2011-2012 school year. During the period under which the
7 transition to end-of-course assessment instruments is made:

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

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

23 (f-1) The commissioner shall determine the level of
24 performance considered to be satisfactory on the SAT, the ACT, and
25 the Texas Success Initiative (TSI) diagnostic assessment for a
26 student described by Subsection (f)(1) to qualify for a high school
27 diploma. In determining satisfactory performance, the

1 commissioner shall ensure that the level of performance determined
2 under this subsection as satisfactory is equivalent to the level of
3 performance required under Subsection (a) for satisfactory
4 performance on an end-of-course assessment instrument.
5 Notwithstanding Subsection (f), the commissioner is not required to
6 retain, administer, or use assessment instruments described by
7 Subsection (f)(1) after September 1, 2017.

8 SECTION 8. Section 39.203(c), Education Code, is amended to
9 read as follows:

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

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

18 (c) Indicators for reporting purposes must include:

19 (1) the percentage of graduating students who meet the
20 course requirements established by State Board of Education rule
21 for:

22 (A) the foundation high school program;

23 (B) the distinguished level of achievement under
24 the foundation high school program; and

25 (C) each endorsement described by Section
26 28.025(c-1);

27 (2) the results of the SAT, ACT, articulated

1 postsecondary degree programs described by Section 61.852, and
2 certified workforce training programs described by Chapter 311,
3 Labor Code;

4 (3) for students who have failed to perform
5 satisfactorily, under each performance standard under Section
6 39.0241, on an assessment instrument required under Section
7 39.023(a) or (c), the performance of those students on subsequent
8 assessment instruments required under those sections, aggregated
9 by grade level and subject area;

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

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

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

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

4 (8) the percentage of students who satisfy the college
5 readiness measure;

6 (9) the measure of progress toward dual language
7 proficiency under Section 39.034(b), for students of limited
8 English proficiency, as defined by Section 29.052;

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

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

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

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

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

1 SECTION 11. The following provisions of the Education Code
2 are repealed:

3 (1) Sections 28.0211(a-2), (b), (d), (e), (m), and
4 (m-1); and

5 (2) Section 39.0238.

6 SECTION 12. This Act applies beginning with the 2017-2018
7 school year.

8 SECTION 13. This Act takes effect immediately if it
9 receives a vote of two-thirds of all the members elected to each
10 house, as provided by Section 39, Article III, Texas Constitution.
11 If this Act does not receive the vote necessary for immediate
12 effect, this Act takes effect September 1, 2017.