

By: King of Hemphill

H.B. No. 3607

A BILL TO BE ENTITLED

AN ACT

relating to secondary-level assessment of public school students.

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

SECTION 1. Section 18.006(b), 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]~~ 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. Section 25.005(b), Education Code, is amended to read as follows:

(b) A reciprocity agreement must:

(1) address procedures for:

(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

1 (2) include appropriate criteria developed by the
2 agency.

3 SECTION 3. Section 28.014(a), Education Code, is amended to
4 read as follows:

5 (a) Each school district shall partner with at least one
6 institution of higher education to develop and provide courses in
7 college preparatory mathematics and English language arts. The
8 courses must be designed:

9 (1) for students at the 12th grade level whose
10 performance on:

11 (A) an ~~[end-of-course]~~ assessment instrument
12 required under Section 39.023(c) does not meet college readiness
13 standards; or

14 (B) coursework, a college entrance examination,
15 or an assessment instrument designated under Section 51.3062(c)
16 indicates that the student is not ready to perform entry-level
17 college coursework; and

18 (2) to prepare students for success in entry-level
19 college courses.

20 SECTION 4. Section 28.0211(o), Education Code, is amended
21 to read as follows:

22 (o) This section does not require the administration of
23 a fifth ~~[or eighth]~~ grade assessment instrument in a subject under
24 Section 39.023(a) to a student enrolled in the fifth ~~[or eighth]~~
25 grade~~[, as applicable,]~~ if the student~~[+~~

26 ~~[(1)]~~ is enrolled in a course in the subject intended
27 for students above the student's grade level and will be

1 administered an assessment instrument adopted or developed under
2 Section 39.023(a) that aligns with the curriculum for the course in
3 which the student is enrolled[~~, or~~

4 ~~[(2) is enrolled in a course in the subject for which~~
5 ~~the student will receive high school academic credit and will be~~
6 ~~administered an end-of-course assessment instrument adopted under~~
7 ~~Section 39.023(c) for the course].~~

8 SECTION 5. Section 28.023(c), Education Code, is amended to
9 read as follows:

10 (c) A school district shall give a student in grade level
11 six or above credit for a subject on the basis of an examination for
12 credit in the subject approved by the board of trustees under
13 Subsection (a) if the student scores in the 80th percentile or above
14 on the examination or if the student achieves a score as provided by
15 Subsection (c-1). If a student is given credit in a subject on the
16 basis of an examination, the district shall enter the examination
17 score on the student's transcript [~~and the student is not required~~
18 ~~to take an end-of-course assessment instrument adopted under~~
19 ~~Section 39.023(c) for that subject].~~

20 SECTION 6. Section 28.025(b-4), Education Code, is amended
21 to read as follows:

22 (b-4) A school district may offer the curriculum described
23 in Subsections (b-1)(1) through (4) in an applied manner. Courses
24 delivered in an applied manner must cover the essential knowledge
25 and skills[~~, and the student shall be administered the applicable~~
26 ~~end-of-course assessment instrument as provided by Sections~~
27 ~~39.023(c) and 39.025].~~

1 SECTION 7. Section 28.0255, Education Code, is amended by
2 amending Subsections (g) and (h) and adding Subsection (g-1) to
3 read as follows:

4 (g) A student entering the ninth grade during the 2017-2018
5 school year is entitled to a high school diploma if the student:

6 (1) successfully complies with the curriculum
7 requirements specified under Subsection (e); and

8 (2) performs satisfactorily, as determined by the
9 commissioner under Subsection (h), on the ~~[end-of-course]~~
10 assessment instrument required ~~[instruments listed]~~ under Section
11 39.023(c) ~~[for courses in which the student was enrolled]~~.

12 (g-1) A student other than a student described by Subsection
13 (g) is entitled to a high school diploma if the student:

14 (1) successfully complies with the curriculum
15 requirements specified under Subsection (e); and

16 (2) performs satisfactorily, as determined by the
17 commissioner under Subsection (h), on assessment instruments
18 listed under Section 39.023(c), as that section existed before
19 amendment by .B. __, Acts of the 85th Legislature, Regular
20 Session, 2017, for courses in which the student was enrolled.

21 (h) For purposes of Subsections ~~[Subsection]~~ (g)(2) and
22 (g-1)(2), the commissioner shall determine the level of
23 satisfactory performance on applicable ~~[end-of-course]~~ assessment
24 instruments administered to a student.

25 SECTION 8. Sections 29.081(b) and (b-1), Education Code,
26 are amended to read as follows:

27 (b) Each district shall provide accelerated instruction to

1 a student enrolled in the district who has taken an [~~end-of-course~~]
2 assessment instrument required [~~administered~~] under Section
3 39.023(c) and has not performed satisfactorily on the assessment
4 instrument or who is at risk of dropping out of school.

5 (b-1) Each school district shall offer before the next
6 scheduled administration of the assessment instrument, without
7 cost to the student, additional accelerated instruction to each
8 student in any subject in which the student failed to perform
9 satisfactorily on an [~~end-of-course~~] assessment instrument
10 required for graduation.

11 SECTION 9. Section 29.087(f), Education Code, is amended to
12 read as follows:

13 (f) A student participating in a program authorized by this
14 section, other than a student ordered to participate under
15 Subsection (d)(1), [~~must have taken the appropriate end-of-course~~
16 ~~assessment instruments specified by Section 39.023(c) before~~
17 ~~entering the program and~~] must take the [~~each appropriate~~
18 ~~end-of-course~~] assessment instrument required under Section
19 39.023(c) before or [~~administered~~] during the period in which the
20 student is enrolled in the program. Except for a student ordered to
21 participate under Subsection (d)(1), a student participating in the
22 program may not take the high school equivalency examination unless
23 the student has taken the assessment instrument as [~~instruments~~]
24 required by this subsection.

25 SECTION 10. Section 29.402(b), Education Code, is amended
26 to read as follows:

27 (b) A person who is under 26 years of age is eligible to

1 enroll in a dropout recovery program under this subchapter if the
2 person:

3 (1) must complete not more than three course credits
4 to complete the curriculum requirements for the foundation high
5 school program for high school graduation; or

6 (2) has failed to perform satisfactorily on:

7 (A) an ~~[end-of-course]~~ assessment instrument
8 required [administered] under Section 39.023(c);

9 (B) an assessment instrument administered under
10 Section 39.023(c) as that section existed before amendment by .B.
11 ____, Acts of the 85th Legislature, Regular Session, 2017; or

12 (C) an assessment instrument administered under
13 Section 39.023(c) as that section existed before amendment by
14 Chapter 1312 (S.B. 1031), Acts of the 80th Legislature, Regular
15 Session, 2007.

16 SECTION 11. Sections 39.023(a-2), (c-3), (e), and (p),
17 Education Code, as effective September 1, 2017, are amended to read
18 as follows:

19 (a-2) Except as required by federal law, a student is not
20 required to be assessed in a subject otherwise assessed at the
21 student's grade level under Subsection (a) if the student[+]

22 [~~(1)~~] is enrolled in a course in the subject intended
23 for students above the student's grade level and will be
24 administered an assessment instrument adopted or developed under
25 Subsection (a) that aligns with the curriculum for the course in
26 which the student is enrolled[+~~or~~

27 [~~(2) is enrolled in a course in the subject for which~~

1 ~~the student will receive high school academic credit and will be~~
2 ~~administered an end-of-course assessment instrument adopted under~~
3 ~~Subsection (c) for the course].~~

4 (c-3) In adopting a schedule for the administration of
5 assessment instruments under this section, the State Board of
6 Education shall require[+]

7 [~~(1)~~] assessment instruments administered under
8 Subsection (a) to be administered on a schedule so that the first
9 assessment instrument is administered at least two weeks later than
10 the date on which the first assessment instrument was administered
11 under Subsection (a) during the 2006-2007 school year[+, and

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

18 (e) Under rules adopted by the State Board of Education,
19 every third year, the agency shall release the questions and answer
20 keys to each assessment instrument administered under Subsection
21 (a), (b), [~~(c)~~] (d), or (l), excluding any assessment instrument
22 administered to a student for the purpose of retaking the
23 assessment instrument, after the last time the instrument is
24 administered for that school year. To ensure a valid bank of
25 questions for use each year, the agency is not required to release a
26 question that is being field-tested and was not used to compute the
27 student's score on the instrument. The agency shall also release,

1 under board rule, each question that is no longer being
2 field-tested and that was not used to compute a student's score.
3 ~~[During the 2014-2015 and 2015-2016 school years, the agency shall~~
4 ~~release the questions and answer keys to assessment instruments as~~
5 ~~described by this subsection each year.]~~

6 (p) On or before September 1 of each year, the commissioner
7 shall make the following information available on the agency's
8 Internet website for each assessment instrument administered under
9 Subsection (a) ~~[(c)],~~ or (1) and for the Texas Success Initiative
10 (TSI) diagnostic assessment:

11 (1) the number of questions on the assessment
12 instrument;

13 (2) the number of questions that must be answered
14 correctly to achieve satisfactory performance as determined by the
15 commissioner under Section 39.0241(a);

16 (3) the number of questions that must be answered
17 correctly to achieve satisfactory performance under the college
18 readiness performance standard as provided by Section 39.0241; and

19 (4) the corresponding scale scores.

20 SECTION 12. Section 39.023, Education Code, is amended by
21 amending Subsections (c), (c-5), (g), and (h) and adding Subsection
22 (h-1) to read as follows:

23 (c) The commissioner shall identify a procedure for a school
24 district to select as a secondary-level assessment instrument the
25 Texas Success Initiative (TSI) diagnostic assessment or a
26 nationally recognized, norm-referenced assessment instrument,
27 including the SAT or the ACT. A school district shall require the

1 administration of the secondary-level assessment instrument
2 selected under this subsection to students in grade 11. [~~The agency~~
3 ~~shall also adopt end-of-course assessment instruments for~~
4 ~~secondary-level courses in Algebra I, biology, English I, English~~
5 ~~II, and United States history. The Algebra I end-of-course~~
6 ~~assessment instrument must be administered with the aid of~~
7 ~~technology. The English I and English II end-of-course assessment~~
8 ~~instruments must each assess essential knowledge and skills in both~~
9 ~~reading and writing in the same assessment instrument and must~~
10 ~~provide a single score.] A school district shall comply with State
11 Board of Education rules regarding administration of an [~~the~~
12 assessment instrument under [~~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 State~~
18 ~~Board of Education shall administer the assessment instruments.~~
19 ~~The 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 (c-5) A student's performance on an [~~end-of-course~~
23 assessment instrument required under Subsection (c) must be
24 included in the student's academic achievement record.

25 (g) An [~~The State Board of Education may adopt one~~
26 ~~appropriate, nationally recognized, norm-referenced~~] assessment
27 instrument under Subsection (c) [~~in reading and mathematics to be~~

1 ~~administered to a selected sample of students in the spring. If~~
2 ~~adopted, a norm-referenced assessment instrument]~~ must be a secured
3 test. The commissioner shall contract with a vendor to administer
4 the assessment instrument, complete the scoring of the assessment
5 instrument, and distribute within a reasonable period the results
6 to the agency and the relevant results to each school district. As
7 soon as practicable after the district receives the results from
8 the vendor under this subsection, the district shall:

9 (1) distribute the relevant results to each district
10 campus; and

11 (2) provide written notice to the student and the
12 person standing in parental relation to the student that states the
13 student's results and whether the student performed satisfactorily
14 on the assessment instrument ~~[The state may pay the costs of~~
15 ~~purchasing and scoring the adopted assessment instrument and of~~
16 ~~distributing the results of the adopted instrument to the school~~
17 ~~districts. A district that administers the norm-referenced test~~
18 ~~adopted under this subsection shall report the results to the~~
19 ~~agency in a manner prescribed by the commissioner].~~

20 (h) Except as provided by Subsection (g), the ~~[The]~~ agency
21 shall notify school districts and campuses of the results of
22 assessment instruments administered under this section not later
23 than the 21st day after the date the assessment instrument is
24 administered.

25 (h-1) A ~~[The]~~ school district shall disclose to each
26 district teacher the results of assessment instruments
27 administered to students taught by the teacher in the subject for

1 the school year in which the assessment instrument is administered.

2 SECTION 13. Subchapter B, Chapter 39, Education Code, is
3 amended by adding Section 39.02302 to read as follows:

4 Sec. 39.02302. SECONDARY-LEVEL ASSESSMENT PREPARATORY
5 COURSE. Each school district shall require secondary-level
6 students to attend, before the student is administered the
7 assessment instrument required under Section 39.023(c), a course
8 designed to prepare students to succeed on the assessment
9 instrument required by the district.

10 SECTION 14. Section 39.0234, Education Code, is amended by
11 amending Subsection (a) and adding Subsection (b) to read as
12 follows:

13 (a) Except as provided by Subsection (b), the ~~[The]~~ agency
14 shall ensure that assessment instruments required under Section
15 39.023 are capable of being administered by computer. The
16 commissioner may not require a school district or open-enrollment
17 charter school to administer an assessment instrument by computer.

18 (b) Subsection (a) does not apply to a nationally
19 recognized, norm-referenced assessment instrument under Section
20 39.023(c).

21 SECTION 15. Sections 39.025(a), (a-4), (b), (b-1), and (f),
22 Education Code, are amended to read as follows:

23 (a) The commissioner shall adopt rules requiring a student
24 in the foundation high school program under Section 28.025 to be
25 administered during the student's 11th grade year an
26 ~~[end-of-course]~~ assessment instrument selected under ~~[listed in]~~
27 Section 39.023(c) by the school district in which the student is

1 enrolled ~~[only for a course in which the student is enrolled and for~~
2 ~~which an end-of-course assessment instrument is administered]~~. A
3 student is required to achieve a scale score that indicates
4 satisfactory performance, as determined by the commissioner under
5 Section [39.0241\(a\)](#), on the ~~[each end-of-course]~~ assessment
6 instrument administered to the student. For each scale score
7 required under this subsection that is not based on a 100-point
8 scale scoring system, the commissioner shall provide for
9 conversion, in accordance with commissioner rule, of the scale
10 score to an equivalent score based on a 100-point scale scoring
11 system. A student may not receive a high school diploma until the
12 student has performed satisfactorily on the ~~[end-of-course]~~
13 assessment instrument ~~[instruments]~~ in the manner provided under
14 this subsection. This subsection does not require a student to
15 demonstrate readiness to enroll in an institution of higher
16 education.

17 (a-4) The admission, review, and dismissal committee of a
18 student in a special education program under Subchapter A, Chapter
19 [29](#), shall determine whether, to receive a high school diploma, the
20 student is required to achieve satisfactory performance on the
21 ~~[end-of-course]~~ assessment instruments required under Section
22 [39.023\(c\)](#).

23 (b) Each time an ~~[end-of-course]~~ assessment instrument
24 required ~~[adopted]~~ under Section [39.023\(c\)](#) is administered, a
25 student who failed to achieve a score requirement under Subsection
26 (a) may retake the assessment instrument. ~~[A student is not~~
27 ~~required to retake a course as a condition of retaking an~~

1 ~~end-of-course assessment instrument.]~~

2 (b-1) A school district shall provide each student who fails
3 to perform satisfactorily as determined by the commissioner under
4 Section 39.0241(a) on an ~~[end-of-course]~~ assessment instrument
5 required under Section 39.023(c) with accelerated instruction ~~[in~~
6 ~~the subject assessed by the assessment instrument]~~.

7 (f) The commissioner shall by rule adopt a transition plan
8 to implement the amendments made by ___B. ___, Acts of the 85th
9 Legislature, Regular Session, 2017 ~~[Chapter 1312 (S.B. No. 1031),~~
10 ~~Acts of the 80th Legislature, Regular Session, 2007]~~, replacing
11 ~~[general subject assessment instruments administered at the high~~
12 ~~school level with]~~ end-of-course assessment instruments with an
13 assessment instrument under Section 39.023(c). The rules must
14 provide for an ~~[the end-of-course]~~ assessment instrument
15 ~~[instruments adopted]~~ under Section 39.023(c) to be administered
16 beginning with students entering the ninth grade during the
17 2017-2018 ~~[2011-2012]~~ school year. During the period under which
18 the transition from ~~[to]~~ end-of-course assessment instruments is
19 made:

20 (1) for students entering a grade above the ninth
21 grade during the 2017-2018 ~~[2011-2012]~~ school year, the
22 commissioner shall retain, administer, and use for purposes of
23 accreditation and other campus and district accountability
24 measures under this chapter the end-of-course assessment
25 instruments required by Section 39.023(c) ~~[39.023(a) or (c)]~~, as
26 that section existed before amendment by ___B. ___, Acts of the 85th
27 Legislature, Regular Session, 2017 ~~[Chapter 1312 (S.B. No. 1031),~~

1 ~~Acts of the 80th Legislature, Regular Session, 2007~~]; and

2 (2) a student subject to Subdivision (1) may not
3 receive a high school diploma unless the student has performed
4 satisfactorily on each required assessment instrument administered
5 under Section 39.023(c) as that section existed before amendment by
6 S.B. _____, Acts of the 85th Legislature, Regular Session, 2017
7 [~~Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature,~~
8 ~~Regular Session, 2007~~].

9 SECTION 16. Section 39.034(d), Education Code, is amended
10 to read as follows:

11 (d) The agency shall determine the necessary annual
12 improvement required each year for a student to be prepared to
13 perform satisfactorily on, as applicable:

- 14 (1) the grade five assessment instruments;
15 (2) the grade eight assessment instruments; and
16 (3) the [~~end-of-course~~] assessment instruments
17 required under this subchapter for graduation.

18 SECTION 17. Section 39.035(a), Education Code, is amended
19 to read as follows:

20 (a) Subject to Subsection (b), the agency may conduct field
21 testing of questions for any assessment instrument administered
22 under Section 39.023(a), (b), [~~(c)~~] (d), or (l) that is separate
23 from the administration of the assessment instrument not more
24 frequently than every other school year.

25 SECTION 18. Section 51.3062(q), Education Code, is amended
26 to read as follows:

27 (q) A student who has achieved scores set by the board on the

1 questions developed for end-of-course assessment instruments under
2 Section 39.0233(a), as that section existed before repeal by .B.
3 _____, Acts of the 85th Legislature, Regular Session, 2017, is exempt
4 from the requirements of this section. The exemption is effective
5 for the three-year period following the date a student takes the
6 last assessment instrument for purposes of this section and
7 achieves the standard set by the board. This subsection does not
8 apply during any period for which the board designates the
9 questions developed for end-of-course assessment instruments under
10 Section 39.0233(a), as that section existed before repeal by .B.
11 _____, Acts of the 85th Legislature, Regular Session, 2017, as the
12 primary assessment instrument under this section, except that the
13 three-year period described by this subsection remains in effect
14 for students who qualify for an exemption under this subsection
15 before that period.

16 SECTION 19. Effective September 1, 2017, the following
17 sections of the Education Code are repealed:

- 18 (1) Sections 39.023(c-2), (c-4), (c-6), and (d);
- 19 (2) Section 39.0232;
- 20 (3) Section 39.0233;
- 21 (4) Section 39.024;
- 22 (5) Sections 39.025(a-1) and (e-1);
- 23 (6) Section 39.025(a-2), as added by Chapter 1036
24 (H.B. 1613), Acts of the 84th Legislature, Regular Session, 2015;
- 25 (7) Section 39.0261(e);
- 26 (8) Section 39.053(d-1); and
- 27 (9) Section 39.203(d).

1 SECTION 20. As soon as practicable after the effective date
2 of this Act, each school district shall provide notice to an eighth
3 grade student under Section 39.025(g), Education Code, informing
4 the student of the specific requirements applicable to the student
5 under Sections 39.023(c) and 39.025(a), Education Code, as amended
6 by this Act.

7 SECTION 21. This Act applies beginning with the 2017-2018
8 school year.

9 SECTION 22. This Act takes effect immediately if it
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas Constitution.
12 If this Act does not receive the vote necessary for immediate
13 effect, this Act takes effect September 1, 2017.