By:  VanDeaver, Ashby, Bernal, Tinderholt, H.B. No. 1480

     Metcalf, et al.

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1.  Subchapter D, Chapter 11, Education Code, is amended by adding Section 11.184 to read as follows:

Sec. 11.184.  SCHOOL DISTRICT ACCELERATED LEARNING COMMITTEE POLICY. (a) The board of trustees of a school district shall adopt a policy regarding the establishment of accelerated learning committees under Section 28.0211. The policy must specify:

(1)  the composition of a committee;

(2)  the frequency of committee meetings during the school year;

(3)  the agenda, content, and purpose of meetings, including whether the committee will consider a student's grades, attendance, behavior, including disciplinary measures, vision, and social-emotional health;

(4)  the objectives and goals of educational plans developed for providing the necessary accelerated instruction to the student;

(5)  methods for measuring the efficacy of an accelerated instruction program;

(6)  whether, for a student in a special education program under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee will serve as the accelerated learning committee in developing the educational plan for the student's accelerated instruction program; and

(7)  whether an accelerated learning committee will include a response-to-intervention approach in administering the educational plan for a student's accelerated instruction program.

(b)  The policy must require that, to the extent practicable, school personnel assigned to a student's accelerated learning committee remain assigned to that committee for the duration of the period for which the student receives accelerated instruction.

(c)  A superintendent of a school district or principal of a campus is not required to serve on an accelerated learning committee.

SECTION 2.  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 3.  Section 28.0211, Education Code, is amended by amending Subsections (a), (a-1), (a-3), (c), (f), (i), 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 (e), 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

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

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

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

(c)  [~~Each time a student fails to perform satisfactorily on an assessment instrument specified under Subsection (a), the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area, including reading instruction for a student who fails to perform satisfactorily on a reading assessment instrument.~~] After a student fails to perform satisfactorily on an assessment instrument specified under Subsection (a) [~~a second time~~], an accelerated learning [~~a grade placement~~] committee shall be established in accordance with the district's policy adopted under Section 11.184 [~~to prescribe the accelerated instruction the district shall provide to the student before the student is administered the assessment instrument the third time. The grade placement committee shall be composed of the principal or the principal's designee, the student's parent or guardian, and the teacher of the subject of an assessment instrument on which the student failed to perform satisfactorily~~]. The district shall notify the parent or guardian of the time and place for convening the accelerated learning [~~grade placement~~] committee and the purpose of the committee. [~~An accelerated instruction group administered by a school district under this section may not have a ratio of more than 10 students for each teacher.~~]

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

(1)  develop an educational plan for the student that provides the necessary accelerated instruction to enable the student to perform at the appropriate grade level by the conclusion of the subsequent school year; and

(2)  provide other assistance to the student in accordance with a policy adopted by the district board of trustees prescribing the role of accelerated learning committees in that district. [~~The district shall provide that accelerated instruction regardless of whether the student has been promoted or retained.~~]

(f-1)  A student for whom an [~~The~~] educational plan is developed under Subsection (f)(1) [~~must be designed to enable the student to perform at the appropriate grade level by the conclusion of the school year. During the school year, the student~~] shall be monitored to ensure that the student is progressing in accordance with the plan. The district shall administer to the student the assessment instrument for the grade level in which the student is placed at the time the district regularly administers the assessment instruments for that school year.

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

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

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

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

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

(i)  The admission, review, and dismissal committee of a student who participates in a district's special education program under Subchapter A, Chapter 29, and who does not perform satisfactorily on an assessment instrument specified under Subsection (a) and administered under Section 39.023(a) or (b) must meet before the student is administered the assessment instrument for the second time. The committee shall determine[~~:~~

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

[~~(2)  whether the student will be promoted in accordance with Subsection (i-1) or retained under this section~~].

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

SECTION 4.  Section 28.025(c), Education Code, is amended to read as follows:

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

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

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

SECTION 5.  Effective September 1, 2019, Sections 39.023(a), (c), (c-3), and (e), Education Code, are amended 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.  Except as provided by Subsection (a-2), all students, other than 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 eight with the aid of technology on any assessment instrument that includes algebra;

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

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

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

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

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

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

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

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

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

(e)  At least [~~Under rules adopted by the State Board of Education,~~] every third year, the agency shall release the questions and answer keys to each assessment instrument administered under Subsection (a), (b), (c), (d), or (l), excluding any assessment instrument administered to a student for the purpose of retaking the assessment instrument, after the last time the instrument is administered for that school year. To ensure a valid bank of questions for use each year, the agency is not required to release a question that is being field-tested and was not used to compute the student's score on the instrument. The agency shall also release[~~, under board rule,~~] each question that is no longer being field-tested and that was not used to compute a student's score. [~~During the 2014-2015 and 2015-2016 school years, the agency shall release the questions and answer keys to assessment instruments as described by this subsection each year.~~]

SECTION 6.  Effective September 1, 2020, Section 39.023(c), Education Code, is amended to read as follows:

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

SECTION 7.  Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.02304 to read as follows:

Sec. 39.02304.  CIVICS TEST. (a) The commissioner shall adopt rules requiring a school district to administer a civics test to a student in the foundation high school program under Section 28.025. A student may not receive a high school diploma until the student has performed satisfactorily on the civics test.

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

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

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

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

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

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

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

(1)  must require:

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

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

(2)  may not:

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

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

(g)  A student who is required to perform satisfactorily on a United States history end-of-course assessment instrument under Section 39.025(a) based on the provisions of Section 39.023(c) in effect on January 1, 2019, may elect to satisfy that requirement by performing satisfactorily on the civics test. This subsection expires September 1, 2027.

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

SECTION 8.  Section 39.025(a-2), Education Code, as added by Chapter 1036 (H.B. 1613), Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a-2)  The commissioner shall determine a method by which a student's satisfactory performance on an advanced placement test, an international baccalaureate examination, an SAT Subject Test, the SAT, the ACT, the Texas Success Initiative (TSI) diagnostic assessment, or any nationally recognized norm-referenced assessment instrument used by institutions of higher education to award course credit based on satisfactory performance on the assessment instrument shall be used to satisfy the requirements concerning an end-of-course assessment instrument in an equivalent course as prescribed by Subsection (a). The commissioner shall determine a method by which a student's satisfactory performance on the PSAT or the ACT-Plan shall be used to satisfy the requirements concerning an end-of-course assessment instrument in an equivalent course as prescribed by Subsection (a). In adopting methods for substituting satisfactory performance on an assessment instrument authorized under this subsection for requirements concerning an end-of-course assessment instrument, the commissioner shall designate a student's performance on a substitute assessment instrument as "masters grade-level performance" if the student's performance entitles the student to receive college credit or if the student's performance meets the assessment instrument provider's designated grade-level college readiness performance benchmark. A student who fails to perform satisfactorily on a substitute [~~test or other~~] assessment instrument authorized under this subsection[~~, other than the PSAT or the ACT-Plan,~~] may retake that [~~test or other~~] assessment instrument for purposes of this subsection or may take the appropriate end-of-course assessment instrument. [~~A student who fails to perform satisfactorily on the PSAT or the ACT-Plan must take the appropriate end-of-course assessment instrument.~~] The commissioner shall adopt rules as necessary for the administration of this subsection.

SECTION 9.  Section 39.025, Education Code, is amended by adding Subsection (a-5) to read as follows:

(a-5)  The commissioner shall implement the changes in law made by H.B. 1480, 86th Legislature, Regular Session, 2019, to Section 39.025(a-2), as added by Chapter 1036 (H.B. 1613), Acts of the 84th Legislature, Regular Session, 2015, and Section 39.053(c-4) effective beginning with the 2019-2020 accountability rating period. This subsection expires September 1, 2020.

SECTION 10.  Section 39.025(c-2), Education Code, as effective September 1, 2019, is amended to read as follows:

(c-2)  A school district may administer to a student who failed to perform satisfactorily on an assessment instrument described by Subsection (c-1) an alternate assessment instrument designated by the commissioner. The commissioner shall determine the level of performance considered to be satisfactory on an alternate assessment instrument. [~~The district may not administer to the student an assessment instrument or a part of an assessment instrument that assesses a subject that was not assessed in an assessment instrument applicable to the student described by Subsection (c-1).~~] The commissioner shall make available to districts information necessary to administer the alternate assessment instrument authorized by this subsection. The commissioner's determination regarding designation of an appropriate alternate assessment instrument under this subsection and the performance required on the assessment instrument is final and may not be appealed.

SECTION 11.  Section 39.053, Education Code, is amended by adding Subsection (c-4) to read as follows:

(c-4)  The commissioner by rule shall determine a method for appropriately crediting a student for growth under Subsection (c)(2) based on the student's performance, including a student's "masters grade-level performance," on a substitute assessment instrument authorized under Section 39.025(a-2), as added by Chapter 1036 (H.B. 1613), Acts of the 84th Legislature, Regular Session, 2015.

SECTION 12.  Section 39.203(c), Education Code, is amended to read as follows:

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

SECTION 13.  Section 39.301(c), Education Code, is amended to read as follows:

(c)  Indicators for reporting purposes must include:

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

(A)  the foundation high school program;

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

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

(2)  the results of the SAT, ACT, and certified workforce training programs described by Chapter 311, Labor Code;

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

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

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

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

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

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

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

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

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

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

SECTION 14.  Section 51.338(d), Education Code, is amended to read as follows:

(d)  A student who has demonstrated the performance standard for college readiness as provided by Section 28.008 on the postsecondary readiness assessment instruments adopted under Section 39.0238 for Algebra II and English III, as that section existed before repeal by H.B. 1480, 86th Legislature, Regular Session, 2019, is exempt from the requirements of this subchapter with respect to those content areas.  The commissioner of higher education by rule shall establish the period for which an exemption under this subsection is valid.

SECTION 15.  The following provisions of the Education Code are repealed:

(1)  Section 7.102(c)(5);

(2)  Sections 28.0211(a-2), (b), (d), (e), (i-1), (i-2), (k), (m), and (m-1); and

(3)  Section 39.0238.

SECTION 16.  (a) Except as otherwise provided by this section, this Act applies beginning with the 2019-2020 school year.

(b)  Section 28.025(c), Education Code, as amended by this Act, and Section 39.02304, Education Code, as added by this Act, apply beginning with students who enter the ninth grade during the 2020-2021 school year.

(c)  Subsection (a) of this section does not apply to a provision of this Act that is effective September 1, 2020.

SECTION 17.  Except as otherwise provided by this Act, this Act takes effect:

(1)  immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution; or

(2)  September 1, 2019, if this Act does not receive the vote necessary for immediate effect.