

By: Bernal

H.B. No. 4242

A BILL TO BE ENTITLED

AN ACT

relating to the administration of state assessments.

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

SECTION 1. Section 39.023, Education Code, is amended by adding Subsection (a-14) and (q) and amending (a-11) and (e) to read as follows:

(a-11) Before an assessment instrument adopted or developed under Subsection (a) may be administered under that subsection, the assessment instrument must, on the basis of empirical evidence, be determined to be valid and reliable by an entity that is independent of the agency and of any other entity that developed the assessment instrument. To the extent practicable, each assessment must also be evaluated by an independent group of qualified educators with Texas teaching experience for readability within the grade level assessed, and each assessment item of sufficient length must be separately evaluated for readability within the grade level assessed before being field-tested under subsection (d). A determination of readability must consider available correlations with other assessments commonly used by Texas school districts, and shall be verified by an independent group of qualified educators with Texas teaching experience. The commissioner shall hold a public hearing before making a determination as to readability of assessments and before any decision under this section.

(a-14) Each reading assessment instrument adopted or

1 developed under Subsection (a) shall be comprised of assessment  
2 passages, items, or questions that are aligned with the essential  
3 skills and knowledge established by the State Board of Education  
4 under Section 39.021 for a course, subject, and grade level, and  
5 that have been determined to be written at the independent reading  
6 level based on multiple generally accepted reliable measures of  
7 readability and as verified by an independent group of qualified  
8 educators with Texas teaching experience.

9 (e) Under rules adopted by the State Board of Education,  
10 every third year, the agency shall release the questions and answer  
11 keys to each assessment instrument administered under Subsection  
12 (a), (b), (c), (d), or (l), excluding any assessment instrument  
13 administered to a student for the purpose of retaking the  
14 assessment instrument, after the last time the instrument is  
15 administered for that school year. To ensure a valid bank of  
16 questions for use each year, the agency is not required to release a  
17 question that is being field-tested and was not used to compute the  
18 student's score on the instrument. The agency shall also release,  
19 under board rule, each question that is no longer being  
20 field-tested and that was not used to compute a student's score.  
21 During the 2014-2015 and 2015-2016 school years, the agency shall  
22 release the questions and answer keys to assessment instruments as  
23 described by this subsection each year. At the time that the agency  
24 releases the questions and answer keys for an assessment  
25 instrument, the agency also shall release the measures of  
26 readability for each question and reading passage as determined  
27 under Subsection (a-14).

1       (g) The State Board of Education shall periodically review,  
2 at least once each year, the assessment instruments adopted or  
3 developed under Subsection (a) and the measures of readability  
4 determined under Subsection (a-14). Any review of assessment  
5 instruments and measures of readability that have not been released  
6 under Subsection (e) may be conducted in closed session.

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

9       Sec. 39.02302. TRANSITION FOR READABILITY MEASURES. (a)  
10 No later than November 1, 2019, the commissioner shall complete an  
11 evaluation of readability within grade level for each assessment  
12 required under Section 39.023(a) and administered during or  
13 following the 2018-2019 and 2019-2020 school years and provide the  
14 results of the evaluation to each legislative oversight committee  
15 and the governor.

16       (b) State assessment performance labels and numeric values,  
17 (including, but not limited to the following: approaches, meets,  
18 and masters grade level), sanctions, interventions and SSI  
19 promotion requirements shall not be applied to students, campuses  
20 or districts based on the results of the 2018-2019 state  
21 assessments unless:

22               (1) a district or campus moves from an unacceptable to  
23 an acceptable rating; and

24               (2) allows a student to comply with a high school  
25 graduation requirement based on successful performance on an  
26 assessment.

27       (c) State assessment instruments shall not be administered

1 during the 2019-2020 or any later school year unless they meet the  
2 readability standards in section 39.023(a-11) and (a-14). If an  
3 assessment instrument does not meet the readability standards in  
4 section 39.023 (a-11) and (a-14), the Commissioner shall request a  
5 federal waiver, if needed, from the requirements of the Every  
6 Student Succeeds Act (ESSA)(20 U.S.C. Section 6301 et seq.) to  
7 comply with this section.

8 (d) To the extent a state assessment is not available that  
9 meets the requirements of section 39.023(a-11) and (a-14) for the  
10 2019-2020 school year, the commissioner shall:

11 (1) request a waiver as necessary to comply with this  
12 section;

13 (2) except as provided by subsection (3), not assign a  
14 state district or campus rating, impose any district or campus  
15 sanction, or require any student promotion condition that is based  
16 in whole or in part on an assessment not meeting the requirements of  
17 section 39.023(a-11) and (a-14) unless expressly required by  
18 federal law and is not waived; and

19 (3) assign a district or campus rating based in whole  
20 or in part on an assessment not meeting the requirements of section  
21 39.023(a-11) and (a-14) only to the extent a district or campus  
22 moves from an unacceptable to an acceptable rating.

23 (e) Nothing in this section shall be construed to limit the  
24 ability of a student to comply with a high school graduation  
25 requirement based on successful performance on an assessment.

26 (f) This section expires September 1, 2021.

27 SECTION 3. Section 39.0241(a), Education Code, is amended

1 to read as follows:

2 (a) The commissioner shall determine the level of  
3 performance considered to be satisfactory on the assessment  
4 instruments~~-,~~ provided that satisfactory performance shall be  
5 based on grade level expectations for a course or subject and shall  
6 be consistent with other indicators of grade level performance,  
7 including the measures of readability determined under Subsection  
8 39.023(a-14).

9 SECTION 4. This Act applies beginning with the 2019-2020  
10 school year.

11 SECTION 5. This Act takes effect immediately if it receives  
12 a vote of two-thirds of all the members elected to each house, as  
13 provided by Section 39, Article III, Texas Constitution. If this  
14 Act does not receive the vote necessary for immediate effect, this  
15 Act takes effect September 1, 2019.