

By: Krause

H.B. No. 189

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the academic assessment of public school students.

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

4 SECTION 1. Section 18.006(b), Education Code, is amended to
5 read as follows:

6 (b) In addition to other factors determined to be
7 appropriate by the commissioner, the accountability system must
8 include consideration of:

9 (1) student performance on the ~~[end-of-course]~~
10 assessment instruments administered under ~~[required by]~~ Section
11 39.023(c); and

12 (2) dropout rates, including dropout rates and diploma
13 program completion rates for the grade levels served by the diploma
14 program.

15 SECTION 2. Section 25.005(b), Education Code, is amended to
16 read as follows:

17 (b) A reciprocity agreement must:

18 (1) address procedures for:

19 (A) transferring student records;

20 (B) awarding credit for completed course work;

21 and

22 (C) permitting a student to satisfy the
23 requirements of Section 39.025 through successful performance on
24 comparable ~~[end-of-course or other exit-level]~~ assessment

1 instruments administered in another state; and

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

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

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

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

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

15 (B) coursework, a college entrance examination,
16 or an assessment instrument designated under Section 51.334
17 indicates that the student is not ready to perform entry-level
18 college coursework; and

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

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

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

27 ~~[-1-]~~ is enrolled in a course in the subject intended

1 for students above the student's grade level and will be
2 administered an assessment instrument adopted or developed under
3 Section 39.023(a) that aligns with the curriculum for the course in
4 which the student is enrolled[~~, or~~

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

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

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

21 SECTION 6. Sections 28.025(b-4) and (c-8), Education Code,
22 are amended to read as follows:

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

1 ~~39.023(c) and 39.025~~].

2 (c-8) For purposes of Subsection (c-7), the admission,
3 review, and dismissal committee of a student in a special education
4 program under Subchapter A, Chapter 29, shall determine whether the
5 student is required to achieve satisfactory performance on an
6 ~~[end-of-course]~~ assessment instrument administered under Section
7 39.023(c) to earn an endorsement on the student's transcript.

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

11 (g) A student entering the ninth grade for the first time
12 beginning with the 2022-2023 school year is entitled to a high
13 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 each ~~[end-of-course]~~
18 assessment instrument selected ~~[instruments listed]~~ under Section
19 39.023(c) by the school district ~~[for courses]~~ in which the student
20 is ~~[was]~~ enrolled.

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

23 (1) successfully complies with the curriculum
24 requirements specified under Subsection (e); and

25 (2) performs satisfactorily, as determined by the
26 commissioner under Subsection (h), on:

27 (A) each assessment instrument selected under

1 Section 39.023(c) by the school district in which the student is
2 enrolled; or

3 (B) assessment instruments listed under Section
4 39.023(c), as that section existed before amendment by H.B. _____,
5 Acts of the 87th Legislature, 2nd Called Session, 2021, for courses
6 in which the student was enrolled.

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

11 SECTION 8. Section 28.0258, Education Code, is amended by
12 amending Subsections (a), (b), (f), (h), (j), and (k) and adding
13 Subsections (m) and (n) to read as follows:

14 (a) This section applies only to an 11th or 12th grade
15 student who has failed to comply with the [~~end-of-course~~]
16 assessment instrument performance requirements under Section
17 39.025 for not more than two subjects identified under Section
18 39.023(c) [courses].

19 (b) For each student to whom this section applies, the
20 school district that the student attends shall establish an
21 individual graduation committee at the end of or after the
22 student's 11th grade year to determine whether the student may
23 qualify to graduate as provided by this section. A student may not
24 qualify to graduate under this section before the student's 12th
25 grade year. The committee shall be composed of:

- 26 (1) the principal or principal's designee;
27 (2) for each subject identified under Section

1 39.023(c) for [~~end-of-course assessment instrument on~~] which the
2 student failed to perform satisfactorily on the appropriate
3 corresponding required assessment instrument, a [~~the~~] teacher of
4 the student in that subject, designated by the principal [~~course~~];

5 (3) the department chair or lead teacher supervising
6 the teacher described by Subdivision (2); and

7 (4) as applicable:

8 (A) the student's parent or person standing in
9 parental relation to the student;

10 (B) a designated advocate described by
11 Subsection (c) if the person described by Paragraph (A) is unable to
12 serve; or

13 (C) the student, at the student's option, if the
14 student is at least 18 years of age or is an emancipated minor.

15 (f) Notwithstanding any other law, a student's individual
16 graduation committee established under this section shall
17 recommend additional requirements by which the student may qualify
18 to graduate, including:

19 (1) additional remediation; and

20 (2) for each [~~end-of-course~~] assessment instrument
21 required under Section 39.023(c) on which the student failed to
22 perform satisfactorily:

23 (A) the completion of a project related to the
24 subject area [~~of the course~~] that demonstrates proficiency in the
25 subject area; or

26 (B) the preparation of a portfolio of work
27 samples in the subject area [~~of the course~~], including work samples

1 ~~[from the course]~~ that demonstrate proficiency in the subject area.

2 (h) In determining whether a student for whom an individual
3 graduation committee is established is qualified to graduate, the
4 committee shall consider:

5 (1) the recommendation of the student's teacher in
6 each course of the subject for which the student failed to perform
7 satisfactorily on an ~~[end-of-course]~~ assessment instrument;

8 (2) the student's grade in each course of the subject
9 for which the student failed to perform satisfactorily on an
10 ~~[end-of-course]~~ assessment instrument;

11 (3) the student's score on each ~~[end-of-course]~~
12 assessment instrument required under Section 39.023(c) on which the
13 student failed to perform satisfactorily;

14 (4) the student's performance on any additional
15 requirements recommended by the committee under Subsection (f);

16 (5) the number of hours of remediation that the
17 student has attended, including~~+~~

18 ~~[(A) attendance in a college preparatory course
19 required under Section 39.025(b-2), if applicable, or~~

20 ~~[(B)]~~ attendance in and successful completion of
21 a transitional college course in reading or mathematics;

22 (6) the student's school attendance rate;

23 (7) the student's satisfaction of any of the Texas
24 Success Initiative (TSI) college readiness benchmarks prescribed
25 by the Texas Higher Education Coordinating Board;

26 (8) the student's successful completion of a dual
27 credit course in English, mathematics, science, or social studies;

1 (9) the student's successful completion of a high
2 school pre-advanced placement, advanced placement, or
3 international baccalaureate program course in English,
4 mathematics, science, or social studies;

5 (10) the student's rating of advanced high on the most
6 recent high school administration of the Texas English Language
7 Proficiency Assessment System;

8 (11) the student's score of 50 or greater on a
9 College-Level Examination Program examination;

10 (12) the student's score on:

11 (A) the ACT or [7] the SAT, if not otherwise
12 considered under Subdivision (3); or

13 (B) the Armed Services Vocational Aptitude
14 Battery test;

15 (13) the student's completion of a sequence of courses
16 under a career and technical education program required to attain
17 an industry-recognized credential or certificate;

18 (14) the student's overall preparedness for
19 postsecondary success; and

20 (15) any other academic information designated for
21 consideration by the board of trustees of the school district.

22 (j) Notwithstanding any action taken by an individual
23 graduation committee under this section, a school district shall
24 administer an [~~end-of-course~~] assessment instrument required under
25 Section 39.023(c) to any student who fails to perform
26 satisfactorily on an [~~end-of-course~~] assessment instrument
27 required under Section 39.023(c) as provided by Section 39.025(b).

1 For purposes of Section 39.053(c)(1), an assessment instrument
2 administered as provided by this subsection is considered an
3 assessment instrument required for graduation retaken by a student.

4 (k) The commissioner shall adopt rules as necessary to
5 administer [~~implement~~] this section [~~not later than the 2015-2016~~
6 ~~school year~~].

7 (m) For a student subject to Section 39.025(f-3)(1):

8 (1) for purposes of Subsection (a), this section
9 applies only to an 11th or 12th grade student who has failed to
10 comply with the end-of-course assessment instrument performance
11 requirements under Section 39.025, as that section existed before
12 amendment by H.B. ____, Acts of the 87th Legislature, 2nd Called
13 Session, 2021, for not more than two courses listed in Section
14 39.023(c), as that section existed before amendment by H.B. ____,
15 Acts of the 87th Legislature, 2nd Called Session, 2021;

16 (2) for purposes of the composition of an individual
17 graduation committee under Subsection (b)(2), the committee shall
18 include the teacher of the course for each end-of-course assessment
19 instrument described by Subdivision (1) for which the student
20 failed to perform satisfactorily;

21 (3) for purposes of Subsection (h)(1), an individual
22 graduation committee shall consider the recommendation of the
23 teacher described by Subdivision (2); and

24 (4) for purposes of Subsection (h)(2), an individual
25 graduation committee shall consider the student's grade in each
26 course described by Subdivision (2).

27 (n) Subsection (m) and this subsection expire September 1,

1 2026.

2 SECTION 9. Sections 29.081(b) and (b-1), Education Code,
3 are amended to read as follows:

4 (b) Each district shall provide accelerated instruction to
5 a student enrolled in the district who has taken an ~~[end-of-course]~~
6 assessment instrument administered under Section 39.023(c) and has
7 not performed satisfactorily on the assessment instrument or who is
8 at risk of dropping out of school.

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

15 SECTION 10. Section 29.087(f), Education Code, is amended
16 to read as follows:

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

1 instruments required by this subsection.

2 SECTION 11. Section 29.402(b), Education Code, is amended
3 to read as follows:

4 (b) A person who is under 26 years of age is eligible to
5 enroll in a dropout recovery program under this subchapter if the
6 person:

7 (1) must complete not more than three course credits
8 to complete the curriculum requirements for the foundation high
9 school program for high school graduation; or

10 (2) has failed to perform satisfactorily on, as
11 applicable:

12 (A) an ~~[end-of-course]~~ assessment instrument
13 administered under Section 39.023(c);

14 (B) an assessment instrument administered under
15 Section 39.023(c) as that section existed before amendment by H.B.
16 ____, Acts of the 87th Legislature, 2nd Called Session, 2021; or

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

21 SECTION 12. Section 39.023, Education Code, as amended by
22 H.B. No. 3261, Acts of the 87th Legislature, Regular Session, 2021,
23 is amended by amending Subsections (a), (a-2), (b-1), (c), (c-3),
24 (c-5), (c-8), (e), (g), (h), (i), and (p) and adding Subsections
25 (b-2), (b-3), (h-1), and (q) to read as follows:

26 (a) The agency shall adopt or develop appropriate
27 criterion-referenced assessment instruments designed to assess

1 essential knowledge and skills in reading, mathematics, [~~social~~
2 ~~studies,~~] and science. Except as provided by Subsection (a-2), all
3 students, other than students assessed under Subsection (b) or (1)
4 or exempted under Section 39.027, shall be assessed in:

5 (1) mathematics, annually in grades three through
6 eight;

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

9 (3) [~~social studies, in grade eight,~~
10 [~~(4)~~] science, in grades five and eight [~~, and~~
11 [~~(5) any other subject and grade required by federal~~
12 ~~law~~].

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

16 [~~(1)~~] is enrolled in a course in the subject intended
17 for students above the student's grade level and will be
18 administered an assessment instrument adopted or developed under
19 Subsection (a) that aligns with the curriculum for the course in
20 which the student is enrolled [~~, or~~

21 [~~(2) is enrolled in a course in the subject for which~~
22 ~~the student will receive high school academic credit and will be~~
23 ~~administered an end-of-course assessment instrument adopted under~~
24 ~~Subsection (c) for the course~~].

25 (b-1) The agency, in conjunction with appropriate
26 interested persons, shall redevelop assessment instruments adopted
27 or developed under Subsection (b) for administration to

1 significantly cognitively disabled students in a manner consistent
2 with federal law. An assessment instrument under this subsection
3 may not require a teacher to prepare tasks or materials for a
4 student who will be administered such an assessment instrument. [~~A
5 classroom portfolio method used to assess writing performance may
6 require a teacher to prepare tasks and materials.~~]

7 (b-2) Notwithstanding Subsection (b), (b-1), or any other
8 law, and to the extent consistent with federal law, the parent of or
9 person standing in parental relation to a student with significant
10 cognitive disabilities may request that the student be exempted
11 from the administration of an alternative assessment instrument
12 adopted or developed under Subsection (b) or (b-1). If a parent or
13 person standing in parental relation makes a request for exemption
14 under this subsection, the student's admission, review, and
15 dismissal committee, in consultation with the parent or person
16 standing in parental relation, shall determine if the student
17 should be exempted from administration of the alternative
18 assessment instrument. If the student is exempted from
19 administration of the alternative assessment instrument under this
20 subsection, the student must be assessed in the applicable subject
21 using the alternative assessment method developed under Subsection
22 (b-3).

23 (b-3) The commissioner, in consultation with stakeholders,
24 including parents of and persons standing in parental relation to
25 students with significant cognitive disabilities, shall develop
26 for each applicable subject an alternative assessment method for
27 the assessment of students who receive an exemption from the

1 administration of an alternative assessment instrument under
2 Subsection (b-2). The criteria for the assessment method must
3 include progress on the goals identified in the student's
4 individualized education plan. The commissioner shall adopt rules
5 necessary to implement this subsection.

6 (c) The agency shall also provide for ~~[adopt end-of-course]~~
7 assessment instruments for each federally required secondary-level
8 subject, including English language arts, mathematics, and
9 science. The commissioner shall identify a procedure for a school
10 district to select the SAT, the ACT, or any other nationally
11 recognized, norm-referenced secondary-level assessment instrument
12 designated by the commissioner for the assessment of students under
13 this subsection. Each school district shall select one or more
14 assessment instruments for purposes of this subsection. A school
15 district that selects more than one assessment instrument must
16 uniformly administer to students in the district the same
17 assessment instrument to satisfy the requirement for the same
18 subject ~~[courses in Algebra I, biology, English I, English II, and~~
19 ~~United States history. The Algebra I end-of-course assessment~~
20 ~~instrument must be administered with the aid of technology, but may~~
21 ~~include one or more parts that prohibit the use of technology]~~. An
22 ~~[The English I and English II end-of-course]~~ assessment instrument
23 designated under this subsection ~~[instruments]~~ must ~~[each]~~ assess
24 essential knowledge and skills in the appropriate subject ~~[both~~
25 ~~reading and writing and must provide a single score]~~. A school
26 district shall comply with State Board of Education rules regarding
27 administration of the assessment instruments under ~~[listed in]~~ this

1 subsection. If a student is in a special education program under
2 Subchapter A, Chapter 29, the student's admission, review, and
3 dismissal committee shall determine whether any allowable
4 modification is necessary in administering to the student an
5 assessment instrument required under this subsection. ~~[The State
6 Board of Education shall administer the assessment instruments. An
7 end-of-course assessment instrument may be administered in
8 multiple parts over more than one day. The State Board of Education
9 shall adopt a schedule for the administration of end-of-course
10 assessment instruments that complies with the requirements of
11 Subsection (c-3).]~~

12 (c-3) Except as ~~[provided by Subsection (c-7) or as]~~
13 otherwise provided by this subsection, in adopting a schedule for
14 the administration of assessment instruments under this section,
15 the State Board of Education shall ensure that assessment
16 instruments administered under Subsection (a) or (c) are not
17 administered on the first instructional day of a week. On request
18 by a school district or open-enrollment charter school, the
19 commissioner may allow the district or school to administer an
20 assessment instrument required under Subsection (a) or (c) on the
21 first instructional day of a week if administering the assessment
22 instrument on another instructional day would result in a
23 significant administrative burden due to specific local
24 conditions.

25 (c-5) A student's performance on an ~~[end-of-course]~~
26 assessment instrument administered ~~[required]~~ under Subsection (c)
27 must be included in the student's academic achievement record.

1 (c-8) Beginning with the 2022-2023 school year, not more
2 than 75 percent of the available points on an assessment instrument
3 developed under Subsection (a) [~~or (c)~~] may be attributable to
4 questions presented in a multiple choice format.

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

20 (g) An [~~The State Board of Education may adopt one~~
21 ~~appropriate, nationally recognized, norm-referenced~~] assessment
22 instrument administered under Subsection (c) [~~in reading and~~
23 ~~mathematics to be administered to a selected sample of students in~~
24 ~~the spring. If adopted, a norm-referenced assessment instrument~~]
25 must be a secured test. The commissioner shall contract with a
26 vendor to administer the assessment instrument, complete the
27 scoring of the assessment instrument, and distribute within a

1 reasonable period the results to the agency and the relevant
2 results to each school district. As soon as practicable after the
3 district receives the results from the vendor under this
4 subsection, the district shall:

5 (1) distribute the relevant results to each district
6 campus; and

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

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

21 (h-1) A [~~The~~] school district shall disclose to each
22 district teacher the results of assessment instruments
23 administered to students taught by the teacher in the subject for
24 the school year in which the assessment instrument is administered.

25 (i) The provisions of this section[~~, except Subsection~~
26 ~~(d),~~] are subject to modification by rules adopted under Section
27 [39.022](#). Each assessment instrument adopted or designated under

1 those rules [~~and each assessment instrument required under~~
2 ~~Subsection (d)] must be reliable and valid and must meet any
3 applicable federal requirements for measurement of student
4 progress.~~

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

9 (1) the number of questions on the assessment
10 instrument;

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

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

17 (4) the corresponding scale scores.

18 (q) Notwithstanding any provision of this section or other
19 law, if changes made to the Every Student Succeeds Act (20 U.S.C.
20 Section 6301 et seq.) reduce the number or frequency of assessment
21 instruments required to be administered to students, the State
22 Board of Education shall adopt rules reducing the number or
23 frequency of assessment instruments administered to students under
24 state law, and the commissioner shall ensure that students are not
25 assessed in subject areas or in grades that are no longer required
26 to meet the minimum requirements of that Act.

27 SECTION 13. The heading to Section 39.0232, Education Code,

1 is amended to read as follows:

2 Sec. 39.0232. USE OF [~~END-OF-COURSE~~] ASSESSMENT INSTRUMENT
3 AS PLACEMENT INSTRUMENT; CERTAIN USES PROHIBITED.

4 SECTION 14. Sections 39.0232(a), (b), and (c), Education
5 Code, are amended to read as follows:

6 (a) To the extent practicable, the agency shall ensure that
7 any high school [~~end-of-course~~] assessment instrument designated
8 under Section 39.023(c) [~~developed by the agency is developed in~~
9 ~~such a manner that the assessment instrument~~] may be used to
10 determine the appropriate placement of a student in a course of the
11 same subject matter at an institution of higher education.

12 (b) A student's performance on an [~~end-of-course~~]
13 assessment instrument administered under Section 39.023(c) may not
14 be used:

15 (1) in determining the student's class ranking for any
16 purpose, including entitlement to automatic college admission
17 under Section 51.803 or 51.804; or

18 (2) as a sole criterion in the determination of
19 whether to admit the student to a general academic teaching
20 institution in this state.

21 (c) Subsection (b)(2) does not prohibit a general academic
22 teaching institution from implementing an admission policy that
23 takes into consideration a student's performance on an
24 [~~end-of-course~~] assessment instrument administered under Section
25 39.023(c) in addition to other criteria.

26 SECTION 15. Section 39.0234(a), Education Code, as amended
27 by H.B. No. 3261, Acts of the 87th Legislature, Regular Session,

1 2021, is amended to read as follows:

2 (a) Each assessment instrument required under Section
3 39.023(a) [~~-(c)~~] or (1) must be administered electronically,
4 unless otherwise provided by commissioner rule.

5 SECTION 16. Section 39.0241, Education Code, is amended by
6 amending Subsection (a-1) and adding Subsection (a-2) to read as
7 follows:

8 (a-1) The commissioner of education, in collaboration with
9 the commissioner of higher education, shall determine the level of
10 performance necessary to indicate college readiness [~~as defined by~~
11 ~~Section 39.024(a)~~].

12 (a-2) In this section, "college readiness" means the level
13 of preparation a student must attain in English language arts and
14 mathematics courses to enroll and succeed, without remediation, in
15 an entry-level general education course for credit in that same
16 content area for a baccalaureate degree or associate degree program
17 at:

18 (1) a general academic teaching institution, as
19 defined by Section 61.003, other than a research institution, as
20 categorized under the Texas Higher Education Coordinating Board's
21 accountability system; or

22 (2) a postsecondary educational institution that
23 primarily offers associate degrees or certificates or credentials
24 other than baccalaureate or advanced degrees.

25 SECTION 17. Subchapter B, Chapter 39, Education Code, is
26 amended by adding Sections 39.02342 and 39.0239 to read as follows:

27 Sec. 39.02342. ALTERNATIVE ADAPTIVE ASSESSMENT

1 INSTRUMENTS. (a) Notwithstanding any other law, the agency shall
2 adopt alternative adaptive assessment instruments in accordance
3 with this section that a school district may administer in lieu of
4 an assessment instrument adopted under Section 39.023 to satisfy
5 state or federal law requirements concerning the administration of
6 that assessment instrument.

7 (b) An alternative adaptive assessment instrument adopted
8 under this section must:

9 (1) effectively measure each student's academic
10 progress over time, without regard to the student's age, grade
11 level, or academic performance;

12 (2) evidence high content or concurrent validity;

13 (3) have been the subject of a study used to determine
14 the typical performance of a student conducted not more than 10
15 years before the adoption of the assessment instrument;

16 (4) use an adaptive difficulty level that is adjusted
17 based on a student's knowledge and ability as demonstrated by the
18 student's performance on the assessment instrument;

19 (5) take no longer than 90 minutes to administer; and

20 (6) provide immediate information and real-time
21 reporting on student progress without requiring any additional data
22 or syncing or uploading by a teacher or administrator.

23 (c) The agency may adopt an alternative adaptive assessment
24 instrument submitted to the agency by a school district if the
25 assessment instrument complies with the requirements of Subsection
26 (b) and serves as an adequate measure of grade level achievement.

27 (d) A school district shall administer an alternative

1 adaptive assessment instrument adopted under this section
2 electronically.

3 (e) The agency shall:

4 (1) determine for each assessment instrument adopted
5 by the agency under this section the level of performance
6 considered to be satisfactory; and

7 (2) develop a method to compile a student's score on
8 each alternative adaptive assessment administered to the student
9 during a school year into a single summative score for each subject
10 area assessed.

11 (f) A school district shall submit in the manner and form
12 prescribed by the agency the results of an alternative adaptive
13 assessment instrument administered under this section to the agency
14 not later than three days after the administration of the
15 assessment instrument.

16 (g) The agency shall provide reimbursement to a school
17 district for all costs associated with the administration of an
18 alternative adaptive assessment instrument under this section.

19 (h) The State Board of Education shall annually review each
20 alternative adaptive assessment instrument adopted by the agency
21 under this section to ensure that the instrument is relevant,
22 valid, and reliable.

23 (i) The agency may contract for services to develop or
24 administer alternative adaptive assessment instruments that comply
25 with the requirements of Subsection (b).

26 (j) The commissioner shall adopt rules necessary to
27 implement this section, including a rule providing the number and

1 schedule of administrations of alternative adaptive assessment
2 instruments under this section and requiring the administration of
3 one alternative adaptive assessment instrument:

- 4 (1) at the beginning of each school year;
5 (2) at the end of each school year; and
6 (3) during each school year, between the
7 administrations under Subdivisions (1) and (2).

8 (k) Unless it conflicts with this section, a reference in
9 law to an assessment instrument adopted under Section 39.023
10 includes an alternative adaptive assessment instrument adopted by
11 the agency or administered by a school district in accordance with
12 this section.

13 Sec. 39.0239. ADMINISTRATION OF ASSESSMENT INSTRUMENTS AND
14 TEMPORARY SUSPENSION OF CERTAIN ACCOUNTABILITY MEASURES DURING
15 DISASTER. (a) If, during a school year, a statewide disaster
16 declared by the president of the United States under the Robert T.
17 Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C.
18 Section 5121 et seq.) or by the governor under Chapter 418,
19 Government Code, significantly disrupts school district
20 operations, including in-person attendance, in a majority of school
21 districts in this state, the commissioner shall apply to the United
22 States Department of Education for a waiver of the requirement
23 under the Every Student Succeeds Act (20 U.S.C. Section 6301 et
24 seq.) to administer assessment instruments during that school year.

25 (b) If the United States Department of Education fails to
26 grant a waiver requested under Subsection (a), the assessment
27 instruments shall be administered as required under Section 39.023

1 during the applicable school year, but, notwithstanding any other
2 law, the commissioner may not consider the results of the
3 assessment instruments for purposes of:

4 (1) evaluating school district or campus performance
5 under this chapter for the applicable school year, including in
6 determining:

7 (A) the performance rating to assign to each
8 district or campus under Section 39.054; or

9 (B) whether to impose any intervention or
10 sanction authorized by Chapter 39A after the applicable school year
11 on each district or campus; or

12 (2) determining a student's qualification for
13 promotion or graduation.

14 SECTION 18. Section 39.025, Education Code, as amended by
15 H.B. No. 4545, Acts of the 87th Legislature, Regular Session, 2021,
16 is amended by amending Subsections (a), (a-4), (b), and (b-1) and
17 adding Subsection (f-3) to read as follows:

18 (a) The commissioner shall adopt rules requiring a student
19 in the foundation high school program under Section 28.025 to be
20 administered each [~~an end-of-course~~] assessment instrument
21 selected under [~~listed in~~] Section 39.023(c) by the school district
22 [~~only for a course~~] in which the student is enrolled [~~and for which~~
23 ~~an end-of-course assessment instrument is administered~~]. Each
24 student's performance on an assessment instrument selected under
25 Section 39.023(c) shall be evaluated to determine whether the [A]
26 student achieved [~~is required to achieve~~] a scale score that
27 indicates satisfactory performance, as determined by the

1 commissioner under Section 39.0241(a) [~~, on each end-of-course~~
2 ~~assessment instrument administered to the student~~]. The results of
3 the administration of an assessment instrument administered under
4 Section 39.023(c) may not be used as criteria for graduation. The
5 results may be used only for the purpose of diagnosing the academic
6 strengths and deficiencies of a student and guiding specific
7 instruction to the student. [~~For each scale score required under~~
8 ~~this subsection that is not based on a 100-point scale scoring~~
9 ~~system, the commissioner shall provide for conversion, in~~
10 ~~accordance with commissioner rule, of the scale score to an~~
11 ~~equivalent score based on a 100-point scale scoring system. A~~
12 ~~student may not receive a high school diploma until the student has~~
13 ~~performed satisfactorily on end-of-course assessment instruments~~
14 ~~in the manner provided under this subsection.~~] This subsection does
15 not require a student to demonstrate readiness to enroll in an
16 institution of higher 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
21 [~~end-of-course~~] assessment instruments administered under Section
22 39.023(c).

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

1 ~~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 administered under Section 39.023(c) with accelerated instruction
6 under Section 28.0217 ~~[in the subject assessed by the assessment~~
7 ~~instrument].~~

8 (f-3) The commissioner shall by rule adopt a transition plan
9 to implement the amendments made by H.B. _____, Acts of the 87th
10 Legislature, 2nd Called Session, 2021, replacing end-of-course
11 assessment instruments with one or more assessment instruments
12 selected by a school district under Section 39.023(c). The rules
13 must provide for each assessment instrument selected by a school
14 district under Section 39.023(c) to be administered beginning with
15 students enrolled in the ninth grade for the first time during the
16 2022-2023 school year. During the period under which the
17 transition from end-of-course assessment instruments is made:

18 (1) for students entering a grade above the ninth
19 grade during the 2022-2023 school year or students repeating ninth
20 grade during the 2022-2023 school year, the commissioner shall
21 retain, administer, and use for purposes of accreditation and other
22 campus and district accountability measures under this chapter the
23 end-of-course assessment instruments required by Section
24 39.023(c), as that section existed before amendment by H.B. _____,
25 Acts of the 87th Legislature, 2nd Called Session, 2021; and

26 (2) a student subject to Subdivision (1) may not
27 receive a high school diploma unless the student has performed

1 satisfactorily on:

2 (A) each required end-of-course assessment
3 instrument administered under Section 39.023(c), as that section
4 existed before amendment by H.B. _____, Acts of the 87th Legislature,
5 2nd Called Session, 2021; or

6 (B) each assessment instrument selected under
7 Section 39.023(c) by the district in which the student is enrolled.

8 SECTION 19. Section 39.034(d), Education Code, is amended
9 to read as follows:

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

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

17 SECTION 20. Section 39.035(a), Education Code, is amended
18 to read as follows:

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

24 SECTION 21. Subchapter C, Chapter 39, Education Code, is
25 amended by adding Section 39.0547 to read as follows:

26 Sec. 39.0547. EVALUATING SPECIALIZED SUPPORT CAMPUSES. (a)
27 In this section, "specialized support campus" means a school

1 district campus that:

2 (1) has a campus identification number;

3 (2) serves students enrolled in any grade level at
4 which state assessment instruments are administered; and

5 (3) has a student enrollment in which:

6 (A) at least 90 percent of students receive
7 special education services under Subchapter A, Chapter 29; and

8 (B) a significant percentage of the students
9 required to take an assessment instrument under Section 39.023:

10 (i) take an alternative assessment
11 instrument under Section 39.023(b) or (b-1); and

12 (ii) are unable to provide an authentic
13 academic response on that assessment instrument.

14 (b) The commissioner, in consultation with administrators
15 of specialized support campuses, teachers at specialized support
16 campuses, parents and guardians of students enrolled at specialized
17 support campuses, and other stakeholders, by rule shall establish
18 appropriate accountability guidelines under this chapter for use by
19 a specialized support campus in developing an alternative
20 accountability plan under Subsection (c) based on the specific
21 student population served by the campus. The commissioner shall
22 provide for public notice and comment in adopting rules under this
23 subsection.

24 (c) A specialized support campus may develop and submit to
25 the commissioner for approval an alternative accountability plan
26 tailored to the student population served by the campus, based on
27 the guidelines established under Subsection (b). The commissioner

1 may approve the alternative accountability plan only if the plan:

2 (1) follows the guidelines established under
3 Subsection (b); and

4 (2) complies with applicable federal law.

5 (d) Notwithstanding any other provision of this code, if the
6 commissioner approves an alternative accountability plan developed
7 by a specialized support campus under Subsection (c), the
8 commissioner shall determine, report, and consider the performance
9 of students enrolled at the campus using that plan.

10 (e) Not later than December 1, 2025, the commissioner shall
11 submit to the governor, the lieutenant governor, the speaker of the
12 house of representatives, and the standing legislative committees
13 with primary jurisdiction over public education a report on the
14 effectiveness of this section in evaluating specialized support
15 campuses and any recommendations for legislative or other action.

16 (f) This section expires September 1, 2026.

17 SECTION 22. Section 39.203(c), Education Code, is amended
18 to read as follows:

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

25 SECTION 23. Section 51.338(c), Education Code, is amended
26 to read as follows:

27 (c) 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
3 H.B. _____, Acts of the 87th Legislature, 2nd Called Session, 2021,
4 is exempt from the requirements of this subchapter. The exemption
5 is effective for the three-year period following the date a student
6 takes the last assessment instrument for purposes of this
7 subchapter and achieves the standard set by the board. This
8 subsection does not apply during any period for which the board
9 designates the questions developed for end-of-course assessment
10 instruments under Section [39.0233\(a\)](#), as that section existed
11 before repeal by H.B. _____, Acts of the 87th Legislature, 2nd Called
12 Session, 2021, as the primary assessment instrument under this
13 subchapter, except that the three-year period described by this
14 subsection remains in effect for students who qualify for an
15 exemption under this subsection before that period.

16 SECTION 24. The following provisions of the Education Code
17 are repealed:

- 18 (1) Sections [39.023\(a-15\)](#), (c-2), (c-4), (c-6),
19 (c-7), (c-9), and (d);
- 20 (2) Section [39.0233](#);
- 21 (3) Section [39.024](#);
- 22 (4) Sections [39.025\(a-1\)](#), (a-2), (a-3), (a-5), and
23 (e-1);
- 24 (5) Section [39.053\(d-1\)](#); and
- 25 (6) Section [39.203\(d\)](#).

26 SECTION 25. As soon as practicable after the effective date
27 of this Act, the Texas Education Agency shall adopt alternative

1 adaptive assessment instruments as required by Section 39.02342,
2 Education Code, as added by this Act.

3 SECTION 26. As soon as practicable after the effective date
4 of this Act, each school district shall provide notice to an eighth
5 grade student under Section 39.025(g), Education Code, informing
6 the student of the specific requirements applicable to the student
7 under Sections 39.023(c) and 39.025(a), Education Code, as amended
8 by this Act.

9 SECTION 27. (a) Except as provided by Subsection (b) of
10 this section, this Act applies beginning with the 2022-2023 school
11 year.

12 (b) Section 39.02342, Education Code, as added by this Act,
13 applies beginning with the 2023-2024 school year.

14 SECTION 28. Not later than January 1, 2023, the Texas
15 Education Agency shall apply to the United States Department of
16 Education for a waiver of the annual alternate assessment of
17 students with significant cognitive disabilities required under
18 the Every Student Succeeds Act (20 U.S.C. Section 6301 et seq.) and
19 the Individuals with Disabilities Education Act (20 U.S.C. Section
20 1400 et seq.).

21 SECTION 29. This Act takes effect January 1, 2022.