87R1173 MM-D

By:  Menéndez S.B. No. 260

A BILL TO BE ENTITLED

AN ACT

relating to the administration of assessment instruments in public schools and eliminating the requirement to use public school assessment instruments as a criterion for promotion or graduation or to make certain accountability determinations.

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

SECTION 1.  Section 18.005(c), Education Code, is amended to read as follows:

(c)  A Job Corps diploma program shall:

(1)  develop educational programs specifically designed for persons eligible for enrollment in a Job Corps training program established by the United States Department of Labor;

(2)  coordinate educational programs and services in the diploma program with programs and services provided by the United States Department of Labor and other federal and state agencies and local political subdivisions and by persons who provide programs and services under contract with the United States Department of Labor;

(3)  provide a course of instruction that includes the required curriculum under Subchapter A, Chapter 28; and

(4)  [~~require that students enrolled in the diploma program satisfy the requirements of Section 39.025 before receiving a diploma under this chapter; and~~

[~~(5)~~]  comply with a requirement imposed under this title or a rule adopted under this title relating to the Public Education Information Management System (PEIMS) to the extent necessary to determine compliance with this chapter, as determined by the commissioner.

SECTION 2.  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 3.  Section 19.0043(b), Education Code, is amended to read as follows:

(b)  A student may graduate and receive a diploma from a Windham School District educational program if:

(1)  the student successfully completes the curriculum requirements identified by the State Board of Education under Section 28.025(a) [~~and complies with Section 39.025~~]; or

(2)  the student successfully completes the curriculum requirements under Section 28.025(a) as modified by an individualized education program developed under Section 29.005.

SECTION 4.  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; and

(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~~]

(2)  include appropriate criteria developed by the agency.

SECTION 5.  Section 26.005, Education Code, is amended to read as follows:

Sec. 26.005.  ACCESS TO STATE ASSESSMENTS. (a) Except as provided by Section 39.023(e) or this section, a parent is entitled to access to a copy of each state assessment instrument administered under Section 39.023 to the parent's child.

(b)  The agency by rule shall determine the manner in which access to any copy of an assessment instrument adopted under Section 39.023(a) or (c) is provided.

SECTION 6.  Section 28.006(j), Education Code, is amended to read as follows:

(j)  No more than 15 percent of the funds certified by the commissioner under Subsection (i) may be spent on indirect costs. The commissioner shall evaluate the programs that fail to meet the standard of performance under Section 39.301(c)(6) [~~39.301(c)(5)~~] and may implement interventions or sanctions under Chapter 39A. The commissioner may audit the expenditures of funds appropriated for purposes of this section. The use of the funds appropriated for purposes of this section shall be verified as part of the district audit under Section 44.008.

SECTION 7.  Section 28.014(a), Education Code, is amended to read as follows:

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

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

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

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

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

SECTION 8.  Section 28.021(c), Education Code, is amended to read as follows:

(c)  In determining promotion under Subsection (a), a school district shall consider:

(1)  the recommendation of the student's teacher;

(2)  the student's grade in each subject or course; and

(3)  [~~the student's score on an assessment instrument administered under Section 39.023(a), (b), or (l), to the extent applicable; and~~

[~~(4)~~]  any other necessary academic information, as determined by the district.

SECTION 9.  The heading to Section 28.0211, Education Code, is amended to read as follows:

Sec. 28.0211.  [~~SATISFACTORY PERFORMANCE ON ASSESSMENT INSTRUMENTS REQUIRED;~~] ACCELERATED INSTRUCTION.

SECTION 10.  Sections 28.0211(a-1), (c), (d), (g), (i), and (k), Education Code, are amended to read as follows:

(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.

(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 a second time, a grade placement committee shall be established 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 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.

(d)  In addition to providing accelerated instruction to a student under Subsection (a-1) [~~(c)~~], the district shall notify the student's parent or guardian of:

(1)  the student's failure to perform satisfactorily on the assessment instrument; and

(2)  the accelerated instruction program to which the student is assigned[~~; and~~

[~~(3)  the possibility that the student might be retained at the same grade level for the next school year~~].

(g)  This section does not preclude the retention at a grade level, in accordance with state law or school district policy, of a student who performs satisfactorily on an assessment instrument [~~specified under Subsection (a)~~].

(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~~].

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

SECTION 11.  Section 28.0217, Education Code, is amended to read as follows:

Sec. 28.0217.  ACCELERATED INSTRUCTION FOR HIGH SCHOOL STUDENTS. Each time a student fails to perform satisfactorily on an assessment instrument required [~~administered~~] under Section 39.023(c), the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area, using funds appropriated for accelerated instruction under Section 28.0211. 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.

SECTION 12.  Section 28.023(c), Education Code, is amended to read as follows:

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

SECTION 13.  Sections 28.025(b-4), (b-7), (c), (c-8), and (e), Education Code, are amended to read as follows:

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

(b-7)  The State Board of Education, in coordination with the Texas Higher Education Coordinating Board, shall adopt rules to ensure that a student may comply with the curriculum requirements under the foundation high school program or for an endorsement under Subsection (c-1) by successfully completing appropriate courses in the core curriculum of an institution of higher education under Section 61.822. Notwithstanding Subsection (b-15) or (c) [~~of this section, Section 39.025,~~] or any other provision of this code and notwithstanding any school district policy, a student who has completed the core curriculum of an institution of higher education under Section 61.822, as certified by the institution in accordance with commissioner rule, is considered to have earned a distinguished level of achievement under the foundation high school program and is entitled to receive a high school diploma from the appropriate high school as that high school is determined in accordance with commissioner rule. A student who is considered to have earned a distinguished level of achievement under the foundation high school program under this subsection may apply for admission to an institution of higher education for the first semester or other academic term after the semester or other academic term in which the student completes the core curriculum.

(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 Section [~~Sections~~] 28.0256 [~~and 39.025~~]; or

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

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

(e)  Each school district shall report the academic achievement record of students who have completed the foundation high school program on transcript forms adopted by the State Board of Education. [~~The transcript forms adopted by the board must be designed to clearly identify whether a student received a diploma or a certificate of coursework completion.~~]

SECTION 14.  Sections 28.02541(a) and (d), Education Code, are amended to read as follows:

(a)  This section applies only to a student who:

(1)  entered the ninth grade before the 2011-2012 school year; and

(2)  successfully completed the curriculum requirements for high school graduation applicable to the student when the student entered the ninth grade[~~;~~

[~~(3)  has not performed satisfactorily on an assessment instrument or a part of an assessment instrument required for high school graduation, including an alternate assessment instrument offered under Section 39.025(c-2); and~~

[~~(4)  has been administered the assessment instrument or the part of the assessment instrument for which the student has not performed satisfactorily at least three times~~].

(d)  In adopting rules under Subsection (c)(2), the commissioner may authorize as an alternative requirement:

(1)  [~~an alternative assessment instrument and performance standard for that assessment instrument;~~

[~~(2)~~]  work experience; or

(2) [~~(3)~~]  military or other relevant life experience.

SECTION 15.  Section 28.0255(g), Education Code, is amended to read as follows:

(g)  A student is entitled to a high school diploma if the student[~~:~~

[~~(1)~~]  successfully complies with the curriculum requirements specified under Subsection (e)[~~; and~~

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

SECTION 16.  Section 28.02591(a), Education Code, is amended to read as follows:

(a)  The Texas Higher Education Coordinating Board, in coordination with the agency, shall collect longitudinal data relating to the post-graduation pursuits of each student who is awarded a diploma based on the determination of an individual graduation committee under former Section 28.0258, as that section existed on January 1, 2021 [~~before September 1, 2023~~], including whether the student:

(1)  enters the workforce;

(2)  enrolls in an associate degree or certificate program at a public or private institution of higher education;

(3)  enrolls in a bachelor's degree program at a public or private institution of higher education; or

(4)  enlists in the armed forces of the United States or the Texas National Guard.

SECTION 17.  Section 29.056(g), Education Code, is amended to read as follows:

(g)  A district may transfer a student of limited English proficiency out of a bilingual education or special language program for the first time or a subsequent time if the student is able to participate equally in a regular all-English instructional program as determined by:

(1)  agency-approved tests administered at the end of each school year to determine the extent to which the student has developed oral and written language proficiency and specific language skills in English;

(2)  satisfactory performance on the reading assessment instrument under Section 39.023(a) or the [~~an~~] English language arts portion of the assessment instrument under Section 39.023(c), as applicable, with the assessment instrument administered in English, or, if the student is enrolled in the first or second grade, an achievement score at or above the 40th percentile in the reading and language arts sections of an English standardized test approved by the agency; and

(3)  agency-approved criterion-referenced tests and the results of a subjective teacher evaluation.

SECTION 18.  Sections 29.081(b) and (b-1), Education Code, are amended to read as follows:

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

(b-1)  Each school district shall offer before the next scheduled administration of the assessment instrument, without cost to the student, additional accelerated instruction to each student in any subject in which the student failed to perform satisfactorily on the [~~an end-of-course~~] assessment instrument required under Section 39.023(c) [~~for graduation~~].

SECTION 19.  Sections 29.087(f) and (l), Education Code, are amended to read as follows:

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

(l)  The commissioner may revoke a school district's or open-enrollment charter school's authorization under this section after consideration of relevant factors, including [~~performance of students participating in the district's or school's program on assessment instruments required under Chapter 39,~~] the percentage of students participating in the district's or school's program who complete the program and perform successfully on the high school equivalency examination[~~,~~] and other criteria adopted by the commissioner. A decision by the commissioner under this subsection is final and may not be appealed.

SECTION 20.  Sections 29.259(g), (i), and (o), Education Code, are amended to read as follows:

(g)  A person who is at least 18 years of age and not more than 50 years of age is eligible to enroll in the adult education program under this section if the person:

(1)  has failed to complete the curriculum requirements for high school graduation; or

(2)  has failed to perform satisfactorily on an assessment instrument that, before the 2021-2022 school year, was required for high school graduation.

(i)  A charter granted under this section must:

(1)  include a description of the adult education program to be offered under this section; and

(2)  establish specific, objective standards for receiving a high school diploma, including[~~:~~

[~~(A)~~]  successful completion of:

(A) [~~(i)~~]  if applicable to the program participant, the curriculum requirements under Section 28.025; or

(B) [~~(ii)~~]  the appropriate curriculum requirements applicable to the program participant[~~; and~~

[~~(B)  satisfactory performance on the standardized secondary exit-level assessment instrument described by Subsection (c)~~].

(o)  The commissioner shall develop and adopt performance frameworks that establish standards by which to measure the performance of an adult high school program operated under a charter granted under this section in a manner consistent with the requirements provided for an open-enrollment charter school under Sections 12.1181(a) and (b). The commissioner shall include in the performance frameworks adopted under this subsection the following performance indicators:

(1)  [~~the percentage of program participants who performed satisfactorily on the standardized secondary exit-level assessment instrument described by Subsection (c);~~

[~~(2)~~]  the percentage of program participants who successfully completed the high school program and earned a high school diploma;

(2) [~~(3)~~]  the percentage of program participants who successfully completed career and technology education courses and obtained industry certification;

(3) [~~(4)~~]  the percentage of program participants who have enrolled in an institution of higher education or private or independent institution of higher education, as those terms are defined under Section 61.003; and

(4) [~~(5)~~]  the percentage of program participants who earned a wage, salary, or other income increase that was significant as determined and reported by the Texas Workforce Commission.

SECTION 21.  Sections 29.402(b) and (c), Education Code, are amended to read as follows:

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

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

(2)  has failed to perform satisfactorily on:

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

(B)  an assessment instrument administered under Section 39.023(c) as that section existed before amendment by \_.B. \_\_\_, Acts of the 87th Legislature, Regular Session, 2021; or

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

(c)  A public junior college under this section shall:

(1)  design a dropout recovery curriculum that includes career and technology education courses that lead to industry or career certification;

(2)  integrate into the dropout recovery curriculum research-based strategies to assist students in becoming able academically to pursue postsecondary education, including:

(A)  high quality, college readiness instruction with strong academic and social supports;

(B)  secondary to postsecondary bridging that builds college readiness skills, provides a plan for college completion, and ensures transition counseling; and

(C)  information concerning appropriate supports available in the first year of postsecondary enrollment to ensure postsecondary persistence and success, to the extent funds are available for the purpose;

(3)  offer advanced academic and transition opportunities, including dual credit courses and college preparatory courses, such as advanced placement courses; and

(4)  coordinate with each partnering school district to provide in the articulation agreement that the district retains accountability for student attendance and[~~,~~] student completion of high school course requirements[~~, and student performance on assessment instruments~~] as necessary for the student to receive a diploma from a high school of the partnering school district.

SECTION 22.  Section 30.021(e), Education Code, is amended to read as follows:

(e)  The school shall cooperate with public and private agencies and organizations serving students and other persons with visual impairments in the planning, development, and implementation of effective educational and rehabilitative service delivery systems associated with educating students with visual impairments. To maximize and make efficient use of state facilities, funding, and resources, the services provided in this area may include conducting a cooperative program with other agencies to serve students who have graduated from high school by completing all academic requirements applicable to students in regular education[~~, excluding satisfactory performance under Section 39.025,~~] who are younger than 22 years of age on September 1 of the school year and who have identified needs related to vocational training, independent living skills, orientation and mobility, social and leisure skills, compensatory skills, or remedial academic skills.

SECTION 23.  Section 30.104(b), Education Code, is amended to read as follows:

(b)  A student may graduate and receive a diploma from a department educational program if:

(1)  the student successfully completes the curriculum requirements identified by the State Board of Education under Section 28.025(a) [~~and complies with Section 39.025~~]; or

(2)  the student successfully completes the curriculum requirements under Section 28.025(a) as modified by an individualized education program developed under Section 29.005.

SECTION 24.  Section 32.258(b), Education Code, is amended to read as follows:

(b)  The system established under Subsection (a) shall provide a means for a student or the student's parent or other person standing in parental relationship to track the student's progress on assessment instruments [~~instrument requirements for graduation~~].

SECTION 25.  Section 37.008(m), Education Code, is amended to read as follows:

(m)  The commissioner shall adopt rules necessary to evaluate annually the performance of each district's disciplinary alternative education program established under this subchapter. The evaluation required by this section shall be based on indicators defined by the commissioner[~~, but must include student performance on assessment instruments required under Sections 39.023(a) and (c)~~]. Academically, the mission of disciplinary alternative education programs shall be to enable students to perform at grade level.

SECTION 26.  Section 39.023(a), Education Code, as effective until September 1, 2021, is amended to read as follows:

(a)  The agency shall adopt nationally recognized [~~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 eight;

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

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

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

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

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

SECTION 27.  Section 39.023(a), Education Code, as effective September 1, 2021, is amended to read as follows:

(a)  The agency shall adopt nationally recognized [~~or develop appropriate criterion-referenced~~] assessment instruments designed to assess essential knowledge and skills in reading, 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 eight;

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

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

[~~(4)~~]  science, in grades five and eight[~~; and~~

[~~(5)  any other subject and grade required by federal law~~].

SECTION 28.  Section 39.023, Education Code, is amended by amending Subsections (a-2), (a-3), (a-11), (a-12), (a-13), (c), (c-1), (c-4), (c-5), (d), (e), (f), (g), (h), (i), and (p) and adding Subsection (h-1) to read as follows:

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

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

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

(a-3)  The agency may not adopt [~~or develop~~] a criterion-referenced assessment instrument under this section based on common core state standards as defined by Section 28.002(b-1). This subsection does not prohibit the use of college advanced placement tests or international baccalaureate examinations as those terms are defined by Section 28.051.

(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.

(a-12)  An assessment instrument adopted [~~or developed~~] under Subsection (a) may not have more than three parts. A part of an assessment instrument must be designed so that:

(1)  if administered to students in grades three and four, 85 percent of students will be able to complete that part within 60 minutes; and

(2)  if administered to students in grades five through eight, 85 percent of students will be able to complete that part within 75 minutes.

(a-13)  The amount of time allowed for administration of an assessment instrument adopted [~~or developed~~] under Subsection (a) may not exceed eight hours, and the administration may occur in multiple parts over more than one day.

(c)  The agency shall also adopt a nationally recognized multiple subject assessment instrument to be administered to students in grade 11 to assess essential knowledge and skills in mathematics, English language arts, and science [~~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, but may include one or more parts that prohibit the use 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 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 the [~~an~~] assessment instrument required under this subsection. [~~The State Board of Education shall administer the assessment instruments. An end-of-course assessment instrument may be administered in multiple parts over more than one day. The 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-1)  The agency shall ensure that each [~~develop any~~] assessment instrument adopted [~~required~~] under this section [~~in a manner that~~] allows for the measurement of annual improvement in student achievement as required by Sections 39.034(c) and (d).

(c-4)  To the extent practicable and subject to Section 39.024, the agency shall ensure that each [~~end-of-course~~] assessment instrument adopted under Subsection (c) is:

(1)  capable of measuring [~~developed in a manner that measures~~] a student's performance under the college readiness standards established under Section 28.008; and

(2)  validated by national postsecondary education experts for college readiness content and performance standards.

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

(d)  The commissioner may participate in multistate efforts to develop voluntary standardized secondary-level [~~end-of-course~~] assessment instruments. [~~The commissioner by rule may require a school district to administer an end-of-course assessment instrument developed through the multistate efforts.~~] The admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, shall determine whether any allowable modification is necessary in administering to the student an [~~end-of-course~~] assessment instrument.

(e)  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.~~]

(f)  An [~~The~~] assessment instrument may not be adopted under this section unless the assessment instrument is [~~instruments shall be~~] designed to include assessment of a student's problem-solving ability and complex-thinking skills using a method of assessing those abilities and skills that is demonstrated to be highly reliable.

(g)  An [~~The State Board of Education may adopt one appropriate, nationally recognized, norm-referenced~~] assessment instrument adopted under Subsection (a) or (c) [~~in reading and mathematics to be administered to a selected sample of students in the spring. If adopted, a norm-referenced assessment instrument~~] must be a secured test. The commissioner shall contract with a nationally recognized vendor to administer the assessment instruments described by this subsection, complete the scoring of the assessment instruments, and distribute within a reasonable period the results to the agency and the relevant results to each school district. As soon as practicable after the district receives the results from the vendor under this subsection, the district shall:

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

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

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

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

(i)  Except as provided by this subsection, the [~~The~~] provisions of this section[~~, except Subsection (d),~~] are subject to modification by rules adopted under Section 39.022. The provisions of Subsection (d) and the provisions requiring the agency to adopt a nationally recognized assessment instrument are not subject to modification by rules adopted under Section 39.022. Each assessment instrument adopted under [~~those~~] rules adopted under Section 39.022 and each assessment instrument required under Subsections (a), (c), and [~~Subsection~~] (d) must be reliable and valid and must meet any applicable federal requirements for measurement of student progress.

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

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

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

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

(4)  the corresponding scale scores.

SECTION 29.  The heading to Section 39.0232, Education Code, is amended to read as follows:

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

SECTION 30.  Section 39.0232(b), Education Code, is amended to read as follows:

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

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

[~~(2)  as a sole criterion in the determination of whether to admit the student to a general academic teaching institution in this state~~].

SECTION 31.  Section 39.0234, Education Code, is amended to read as follows:

Sec. 39.0234.  ELECTRONIC ADMINISTRATION OF ASSESSMENT INSTRUMENTS. (a) Except as provided by Subsection (b), the [~~The~~] agency shall ensure that assessment instruments required under Section 39.023 are capable of being administered electronically.

(b)  Subsection (a) does not apply to a nationally recognized assessment instrument adopted by the agency under Section 39.023(a) or (c).

SECTION 32.  Section 39.024(i), Education Code, is amended to read as follows:

(i)  The agency shall gather data and conduct research to substantiate any correlation between a certain level of performance by students on the [~~end-of-course~~] assessment instrument required under Section 39.023(c) [~~instruments~~] and success in:

(1)  military service; or

(2)  a workforce training, certification, or other credential program at a postsecondary educational institution that primarily offers associate degrees or certificates or credentials other than baccalaureate or advanced degrees.

SECTION 33.  The heading to Section 39.025, Education Code, is amended to read as follows:

Sec. 39.025.  USE OF SECONDARY-LEVEL ASSESSMENT INSTRUMENT [~~SECONDARY-LEVEL PERFORMANCE REQUIRED~~].

SECTION 34.  Sections 39.025(a), (b-1), and (f), Education Code, are amended to read as follows:

(a)  The commissioner shall adopt rules requiring a student in the foundation high school program under Section 28.025 to be administered the [~~an end-of-course~~] assessment instrument required under [~~listed in~~] Section 39.023(c) [~~only for a course in which the student is enrolled and for which an end-of-course assessment instrument is administered~~]. Each student's performance on the assessment instrument shall be evaluated to determine whether the [~~A~~] student achieved [~~is required to achieve~~] a scale score that indicates satisfactory performance, as determined by the commissioner under Section 39.0241(a)[~~, on each end-of-course assessment instrument administered to the student~~]. The results of the administration of the assessment instrument may not be used as criteria for graduation. The results may be used only for the purpose of diagnosing the academic strengths and deficiencies of a student and guiding specific instruction to the student. [~~For each scale score required under this subsection that is not based on a 100-point scale scoring system, the commissioner shall provide for conversion, in accordance with commissioner rule, of the scale score to an equivalent score based on a 100-point scale scoring system. A student may not receive a high school diploma until the student has performed satisfactorily on end-of-course assessment instruments in the manner provided under this subsection. This subsection does not require a student to demonstrate readiness to enroll in an institution of higher education.~~]

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

(f)  The commissioner shall [~~by rule~~] adopt rules [~~a transition plan~~] to implement the amendments made by \_.B. \_\_, Acts of the 87th Legislature, Regular Session, 2021 [~~Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007~~], replacing end-of-course [~~general subject~~] assessment instruments administered at the high school level with a nationally recognized, multiple subject [~~end-of-course~~] assessment instrument [~~instruments~~]. The rules must provide for:

(1)  the assessment instrument [~~end-of-course assessment instruments~~] adopted under Section 39.023(c) to be administered beginning with [~~students enrolled in the ninth grade for the first time during~~] the 2021-2022 [~~2011-2012~~] school year; and

(2)  an exemption from the requirement under Subdivision (1)[~~. During the period under which the transition to end-of-course assessment instruments is made:~~

[~~(1)~~] for students who, before [~~entering a grade above the ninth grade during~~] the 2021-2022 [~~2011-2012~~] school year, have been administered the Algebra I, biology, English I, and English II end-of-course assessment instruments [~~or students repeating ninth grade during the 2011-2012 school year, the commissioner shall retain, administer, and use for purposes of accreditation and other campus and district accountability measures under this chapter the assessment instruments required by Section 39.023(a) or (c), as that section existed before amendment by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007; and~~

[~~(2)  a student subject to Subdivision (1) may not receive a high school diploma unless the student has performed satisfactorily on the SAT, the ACT, the Texas Success Initiative (TSI) diagnostic assessment, or the current assessment instrument or instruments administered for graduation purposes as provided by Subsection (f-1) or on each required assessment instrument administered~~] under Section 39.023(c), as that section existed on January 1, 2021 [~~before amendment by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007~~].

SECTION 35.  Section 39.034(d), Education Code, is amended to read as follows:

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

(1)  the grade five assessment instruments;

(2)  the grade eight assessment instruments; and

(3)  the [~~end-of-course~~] assessment instrument [~~instruments~~] required under Section 39.023(c) [~~this subchapter for graduation~~].

SECTION 36.  Section 39.035(a), Education Code, is amended to read as follows:

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

SECTION 37.  Section 39.053(c), Education Code, is amended to read as follows:

(c)  School districts and campuses must be evaluated based on three domains of indicators of achievement adopted under this section that include:

(1)  in the student achievement domain, indicators of student achievement that must include:

(A)  for evaluating the performance of districts and campuses generally, [~~:~~

[~~(i)~~]  an indicator determined by the commissioner that may not include [~~that accounts for~~] the results of assessment instruments required under Section 39.023 [~~Sections 39.023(a), (c), and (l), as applicable for the district and campus, including the results of assessment instruments required for graduation retaken by a student, aggregated across grade levels by subject area, including:~~

[~~(a)  for the performance standard determined by the commissioner under Section 39.0241(a), the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and~~

[~~(b)  for the college readiness performance standard as determined under Section 39.0241, the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and~~

[~~(ii)  an indicator that accounts for the results of assessment instruments required under Section 39.023(b), as applicable for the district and campus, including the percentage of students who performed satisfactorily on the assessment instruments, as determined by the performance standard adopted by the agency, aggregated across grade levels by subject area~~]; and

(B)  for evaluating the performance of high school campuses and districts that include high school campuses, indicators that account for:

(i)  students who satisfy the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board under Section 51.334 on an assessment instrument in reading or mathematics designated by the coordinating board under that section;

(ii)  students who satisfy relevant performance standards on advanced placement tests or similar assessments;

(iii)  students who earn dual course credits in the dual credit courses;

(iv)  students who enlist in the armed forces of the United States;

(v)  students who earn industry certifications;

(vi)  students admitted into postsecondary industry certification programs that require as a prerequisite for entrance successful performance at the secondary level;

(vii)  students whose successful completion of a course or courses under Section 28.014 indicates the student's preparation to enroll and succeed, without remediation, in an entry-level general education course for a baccalaureate degree or associate degree;

(viii)  students who successfully met standards on a composite of indicators that through research indicates the student's preparation to enroll and succeed, without remediation, in an entry-level general education course for a baccalaureate degree or associate degree;

(ix)  high school graduation rates, computed in accordance with standards and definitions adopted in compliance with the Every Student Succeeds Act (20 U.S.C. Section 6301 et seq.) subject to the exclusions provided by Subsections (g), (g-1), (g-2), [~~and~~] (g-3), and (g-4);

(x)  students who successfully completed an OnRamps dual enrollment course;

(xi)  students who successfully completed a practicum or internship approved by the State Board of Education; and

(xii)  students who are awarded an associate degree;

(2)  in the school progress domain, indicators for effectiveness in promoting student learning, which must include[~~:~~

[~~(A)  for assessment instruments, including assessment instruments under Subdivisions (1)(A)(i) and (ii), the percentage of students who met the standard for improvement, as determined by the commissioner; and~~

[~~(B)  for evaluating relative performance,~~] the performance of districts and campuses compared to similar districts or campuses; and

(3)  in the closing the gaps domain, the use of disaggregated data to demonstrate the differentials among students from different racial and ethnic groups, socioeconomic backgrounds, and other factors, including:

(A)  students formerly receiving special education services;

(B)  students continuously enrolled; and

(C)  students who are mobile.

SECTION 38.  Section 39.054(b-1), Education Code, is amended to read as follows:

(b-1)  Consideration of the effectiveness of district programs under Section 39.052(b)(2)(B) or (C):

(1)  must[~~:~~

[~~(A)~~]  be based on data collected through the Public Education Information Management System (PEIMS) for purposes of accountability under this chapter; and

[~~(B)  include the results of assessments required under Section 39.023; and~~]

(2)  may be based on the results of a special accreditation investigation conducted under Section 39.057.

SECTION 39.  Section 39.055, Education Code, is amended to read as follows:

Sec. 39.055.  STUDENT ORDERED BY A JUVENILE COURT OR STUDENT IN RESIDENTIAL FACILITY NOT CONSIDERED FOR ACCOUNTABILITY PURPOSES. Notwithstanding any other provision of this code except to the extent otherwise provided under Section 39.053(g-3), for purposes of determining the performance of a school district, campus, or open-enrollment charter school under this chapter, a student ordered by a juvenile court into a residential program or facility operated by or under contract with the Texas Juvenile Justice Department, a juvenile board, or any other governmental entity or any student who is receiving treatment in a residential facility is not considered to be a student of the school district in which the program or facility is physically located or of an open-enrollment charter school, as applicable. The performance of such a student on an [~~assessment instrument or other~~] achievement indicator adopted under Section 39.053 or reporting indicator adopted under Section 39.301 shall be determined, reported, and considered separately from the performance of students attending a school of the district in which the program or facility is physically located or an open-enrollment charter school, as applicable.

SECTION 40.  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 English language arts, mathematics, or science[~~, or social studies~~].

SECTION 41.  Sections 39.301(c) and (d), Education Code, are 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)  the percentage of students, aggregated by grade level and subject area, who satisfy each performance standard under Section 39.0241 on assessment instruments required under:

(A)  Section 39.023(a); and

(B)  Section 39.023(c);

(4)  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;

(5) [~~(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;

(6) [~~(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 following school year [~~following that promotion~~] on the assessment instruments required under Section 39.023;

(7) [~~(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);

(8) [~~(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.

(d)  Performance on the indicators described by Section 39.053(c) and Subsections (c)(3), (4), (5), and (9) must be based on longitudinal student data that is disaggregated by the bilingual education or special language program, if any, in which students of limited English proficiency, as defined by Section 29.052, are or former students of limited English proficiency were enrolled. If a student described by this subsection is not or was not enrolled in specialized language instruction, the number and percentage of those students shall be provided.

SECTION 42.  Section 39.305(b), Education Code, is amended to read as follows:

(b)  The report card shall include the following information:

(1)  where applicable, the achievement indicators described by Section 39.053(c) and the reporting indicators described by Sections 39.301(c)(1) through (6) [~~(5)~~];

(2)  average class size by grade level and subject;

(3)  the administrative and instructional costs per student, computed in a manner consistent with Section 44.0071; and

(4)  the district's instructional expenditures ratio and instructional employees ratio computed under Section 44.0071, and the statewide average of those ratios, as determined by the commissioner.

SECTION 43.  Section 39.332(b)(20), Education Code, is amended to read as follows:

(20)  The report must contain a comparison of the performance of open-enrollment charter schools and school districts on the achievement indicators described by Section 39.053(c) and [~~,~~] the reporting indicators described by Section 39.301(c), [~~and the accountability measures adopted under Section 39.053(i),~~] with a separately aggregated comparison of the performance of open-enrollment charter schools predominantly serving students at risk of dropping out of school, as described by Section 29.081(d), with the performance of school districts.

SECTION 44.  Section 51.338(c), Education Code, is amended to read as follows:

(c)  A student who has achieved scores set by the board on the questions developed for end-of-course assessment instruments under Section 39.0233(a), as that section existed before repeal by \_\_.B. \_\_\_\_, Acts of the 87th Legislature, Regular Session, 2021, is exempt from the requirements of this subchapter. The exemption is effective for the three-year period following the date a student takes the last assessment instrument for purposes of this subchapter and achieves the standard set by the board. This subsection does not apply during any period for which the board designates the questions developed for end-of-course assessment instruments under Section 39.0233(a), as that section existed before repeal by \_.B. \_\_\_\_, Acts of the 87th Legislature, Regular Session, 2021, as the primary assessment instrument under this subchapter, except that the three-year period described by this subsection remains in effect for students who qualify for an exemption under this subsection before that period.

SECTION 45.  Effective September 1, 2021, the following provisions of the Education Code are repealed:

(1)  Section 12.104(b-2);

(2)  Section 19.0043(c);

(3)  Section 21.4551(c);

(4)  Sections 28.0211(a), (a-2), (b), (e), (f), (i-1), (i-2), (n), (o), and (p);

(5)  Sections 28.025(c-6) and (d);

(6)  Section 28.0255(h);

(7)  Section 28.0258;

(8)  Section 28.0259;

(9)  Section 29.259(c);

(10)  Section 30.104(c);

(11)  Sections 39.023(a-1), (c-2), (c-6), and (c-8);

(12)  Section 39.023(c-7), as added by Chapter 1282 (H.B. 1244), Acts of the 86th Legislature, Regular Session, 2019;

(13)  Section 39.0231;

(14)  Sections 39.0232(a), (c), and (d);

(15)  Section 39.0233;

(16)  Sections 39.025(a-1), (a-2), (a-3), (a-4), (a-5), (b), (c), (c-1), (c-2), (d), (e), (e-1), (f-1), (f-2), and (g);

(17)  Sections 39.053(c-2), (c-3), (d), and (d-1); and

(18)  Section 39.203(d).

SECTION 46.  Before the first administration of the assessment instruments adopted under Sections 39.023(a) and (c), Education Code, as amended by this Act, the Texas Education Agency shall develop evidence, through a peer review process, to demonstrate that the assessment instruments are aligned with the essential knowledge and skills for each subject assessed.

SECTION 47.  (a) As soon as practicable, each school district that provided notice to an eighth grade student during the 2020-2021 school year under Section 39.025(g), Education Code, as that section existed before the repeal by this Act, shall send an updated notice to that student informing the student of the specific requirements applicable to the student under Sections 39.023(c) and 39.025(a), Education Code, as amended by this Act.

(b)  As soon as practicable, the commissioner of education shall determine the level of performance considered to be satisfactory as required under Section 39.0241(a), Education Code, on the assessment instrument required under Section 39.023(c), Education Code, as amended by this Act.

SECTION 48.  The Texas Education Agency shall, to the greatest extent practicable, apply cost savings that result from implementing the changes made by this Act to support any program eligible under Title I, Elementary and Secondary Education Act of 1965 (20 U.S.C. Section 6301 et seq.).

SECTION 49.  This Act applies beginning with the 2021-2022 school year.

SECTION 50.  This Act takes effect 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. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.