

By: Krause, Landgraf, Burns, Slawson

H.B. No. 764

Substitute the following for H.B. No. 764:

By: Dutton

C.S.H.B. No. 764

A BILL TO BE ENTITLED

AN ACT

relating to the academic assessment of public school students.

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

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

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

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

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

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

(b) A reciprocity agreement must:

(1) address procedures for:

(A) transferring student records;

(B) awarding credit for completed course work;

and

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

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 2021-2022 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 .B. _____,
5 Acts of the 87th Legislature, Regular Session, 2021, for courses in
6 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 __.B. __, Acts of the 87th Legislature, Regular
13 Session, 2021, for not more than two courses listed in Section
14 39.023(c), as that section existed before amendment by __.B. __,
15 Acts of the 87th Legislature, Regular 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 2025.

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 .B.
16 __, Acts of the 87th Legislature, Regular 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(a), Education Code, as effective
22 until September 1, 2021, is amended to read as follows:

23 (a) The agency shall adopt or develop appropriate
24 criterion-referenced assessment instruments designed to assess
25 essential knowledge and skills in reading, ~~[writing,~~ mathematics,
26 ~~[social studies,~~ and science. Except as provided by Subsection
27 (a-2), all students, other than students assessed under Subsection

1 (b) or (1) or exempted under Section 39.027, shall be assessed in:

2 (1) mathematics, annually in grades three through
3 eight;

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

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

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

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

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

12 SECTION 13. Section 39.023(a), Education Code, as effective
13 September 1, 2021, is amended to read as follows:

14 (a) The agency shall adopt or develop appropriate
15 criterion-referenced assessment instruments designed to assess
16 essential knowledge and skills in reading, mathematics, [~~social~~
17 ~~studies,~~] and science. Except as provided by Subsection (a-2), all
18 students, other than students assessed under Subsection (b) or (1)
19 or exempted under Section 39.027, shall be assessed in:

20 (1) mathematics, annually in grades three through
21 eight;

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

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

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

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

1 SECTION 14. Section 39.023, Education Code, is amended by
2 amending Subsections (a-2), (b-1), (c), (c-3), (c-5), (c-8), (e),
3 (g), (h), (i), and (p) and adding Subsections (h-1) and (q) to read
4 as follows:

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

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

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

17 (b-1) The agency, in conjunction with appropriate
18 interested persons, shall redevelop assessment instruments adopted
19 or developed under Subsection (b) for administration to
20 significantly cognitively disabled students in a manner consistent
21 with federal law. An assessment instrument under this subsection
22 may not require a teacher to prepare tasks or materials for a
23 student who will be administered such an assessment instrument. [~~A~~
24 ~~classroom portfolio method used to assess writing performance may~~
25 ~~require a teacher to prepare tasks and materials.]~~

26 (c) The agency shall also provide for [~~adopt end-of-course~~]
27 assessment instruments for each federally required secondary-level

1 subject, including English language arts, mathematics, and
2 science. The commissioner shall identify a procedure for a school
3 district to select the SAT, the ACT, or any other nationally
4 recognized, norm-referenced secondary-level assessment instrument
5 designated by the commissioner for the assessment of students under
6 this subsection. Each school district shall select one or more
7 assessment instruments for purposes of this subsection. A school
8 district that selects more than one assessment instrument must
9 uniformly administer to students in the district the same
10 assessment instrument to satisfy the requirement for the same
11 subject [~~courses in Algebra I, biology, English I, English II, and~~
12 ~~United States history. The Algebra I end-of-course assessment~~
13 ~~instrument must be administered with the aid of technology, but may~~
14 ~~include one or more parts that prohibit the use of technology~~]. An
15 [~~The English I and English II end-of-course~~] assessment instrument
16 designated under this subsection [~~instruments~~] must [~~each~~] assess
17 essential knowledge and skills in the appropriate subject [~~both~~
18 ~~reading and writing and must provide a single score~~]. A school
19 district shall comply with State Board of Education rules regarding
20 administration of the assessment instruments under [~~listed in~~] this
21 subsection. If a student is in a special education program under
22 Subchapter A, Chapter 29, the student's admission, review, and
23 dismissal committee shall determine whether any allowable
24 modification is necessary in administering to the student an
25 assessment instrument required under this subsection. [~~The State~~
26 ~~Board of Education shall administer the assessment instruments. An~~
27 ~~end-of-course assessment instrument may be administered in~~

1 ~~multiple parts over more than one day. The State Board of Education~~
2 ~~shall adopt a schedule for the administration of end-of-course~~
3 ~~assessment instruments that complies with the requirements of~~
4 ~~Subsection (c-3).]~~

5 (c-3) In [~~Except as provided by Subsection (c-7), in~~
6 adopting a schedule for the administration of assessment
7 instruments under this section, the State Board of Education shall
8 ensure that assessment instruments administered under Subsection
9 (a) or (c) are not administered on the first instructional day of a
10 week.

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

14 (c-8) Beginning with the 2022-2023 school year, an
15 assessment instrument developed under Subsection (a) [~~or (c)~~] may
16 not present more than 75 percent of the questions in a multiple
17 choice format.

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

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

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

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

20 (2) provide written notice to the student and the
21 person standing in parental relation to the student that states the
22 student's results and whether the student performed satisfactorily
23 on the assessment instrument ~~[The state may pay the costs of~~

24 ~~purchasing and scoring the adopted assessment instrument and of~~
25 ~~distributing the results of the adopted instrument to the school~~
26 ~~districts. A district that administers the norm-referenced test~~
27 ~~adopted under this subsection shall report the results to the~~

1 ~~agency in a manner prescribed by the commissioner~~].

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

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

11 (i) The provisions of this section~~[, except Subsection~~
12 ~~(d),]~~ are subject to modification by rules adopted under Section
13 39.022. Each assessment instrument adopted or designated under
14 those rules ~~[and each assessment instrument required under~~
15 ~~Subsection (d)]~~ must be reliable and valid and must meet any
16 applicable federal requirements for measurement of student
17 progress.

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

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

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

27 (3) the number of questions that must be answered

1 correctly to achieve satisfactory performance under the college
2 readiness performance standard as provided by Section 39.0241; and

3 (4) the corresponding scale scores.

4 (g) Notwithstanding any provision of this section or other
5 law, if changes made to the Every Student Succeeds Act (20 U.S.C.
6 Section 6301 et seq.) reduce the number or frequency of assessment
7 instruments required to be administered to students, the State
8 Board of Education shall adopt rules reducing the number or
9 frequency of assessment instruments administered to students under
10 state law, and the commissioner shall ensure that students are not
11 assessed in subject areas or in grades that are no longer required
12 to meet the minimum requirements of that Act.

13 SECTION 15. The heading to Section 39.0232, Education Code,
14 is amended to read as follows:

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

17 SECTION 16. Sections 39.0232(a), (b), and (c), Education
18 Code, are amended to read as follows:

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

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

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

4 (2) as a sole criterion in the determination of
5 whether to admit the student to a general academic teaching
6 institution in this state.

7 (c) Subsection (b)(2) does not prohibit a general academic
8 teaching institution from implementing an admission policy that
9 takes into consideration a student's performance on an
10 ~~[end-of-course]~~ assessment instrument administered under Section
11 39.023(c) in addition to other criteria.

12 SECTION 17. Section 39.0234, Education Code, is amended to
13 read as follows:

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

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

21 SECTION 18. Section 39.0241, Education Code, is amended by
22 amending Subsection (a-1) and adding Subsection (a-2) to read as
23 follows:

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

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

7 (1) a general academic teaching institution, as
8 defined by Section 61.003, other than a research institution, as
9 categorized under the Texas Higher Education Coordinating Board's
10 accountability system; or

11 (2) a postsecondary educational institution that
12 primarily offers associate degrees or certificates or credentials
13 other than baccalaureate or advanced degrees.

14 SECTION 19. Subchapter B, Chapter 39, Education Code, is
15 amended by adding Section 39.02342 to read as follows:

16 Sec. 39.02342. ALTERNATIVE ADAPTIVE ASSESSMENT
17 INSTRUMENTS. (a) Notwithstanding any other law, the agency shall
18 adopt alternative adaptive assessment instruments in accordance
19 with this section that a school district may administer in lieu of
20 an assessment instrument adopted under Section 39.023 to satisfy
21 state or federal law requirements concerning the administration of
22 that assessment instrument.

23 (b) An alternative adaptive assessment instrument adopted
24 under this section must:

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

1 (2) evidence high content or concurrent validity;

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

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

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

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

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

16 (d) A school district shall administer an alternative
17 adaptive assessment instrument adopted under this section
18 electronically.

19 (e) The agency shall:

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

23 (2) develop a method to compile a student's score on
24 each alternative adaptive assessment administered to the student
25 during a school year into a single summative score for each subject
26 area assessed.

27 (f) A school district shall submit in the manner and form

1 prescribed by the agency the results of an alternative adaptive
2 assessment instrument administered under this section to the agency
3 not later than three days after the administration of the
4 assessment instrument.

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

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

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

15 (j) The commissioner shall adopt rules necessary to
16 implement this section, including a rule providing the number and
17 schedule of administrations of alternative adaptive assessment
18 instruments under this section and requiring the administration of
19 one alternative adaptive assessment instrument:

20 (1) at the beginning of each school year;

21 (2) at the end of each school year; and

22 (3) during each school year, between the
23 administrations under Subdivisions (1) and (2).

24 (k) Unless it conflicts with this section, a reference in
25 law to an assessment instrument adopted under Section [39.023](#)
26 includes an alternative adaptive assessment instrument adopted by
27 the agency or administered by a school district in accordance with

1 this section.

2 SECTION 20. Section 39.025, Education Code, is amended by
3 amending Subsections (a), (a-4), (b), and (b-1) and adding
4 Subsection (f-3) to read as follows:

5 (a) The commissioner shall adopt rules requiring a student
6 in the foundation high school program under Section 28.025 to be
7 administered each [~~an end-of-course~~] assessment instrument
8 selected under [~~listed in~~] Section 39.023(c) by the school district
9 [~~only for a course~~] in which the student is enrolled [~~and for which~~
10 ~~an end-of-course assessment instrument is administered~~]. A student
11 is required to achieve a scale score that indicates satisfactory
12 performance, as determined by the commissioner under Section
13 39.0241(a), on each [~~end-of-course~~] assessment instrument
14 administered to the student. For each scale score required under
15 this subsection that is not based on a 100-point scale scoring
16 system, the commissioner shall provide for conversion, in
17 accordance with commissioner rule, of the scale score to an
18 equivalent score based on a 100-point scale scoring system. A
19 student may not receive a high school diploma until the student has
20 performed satisfactorily on each [~~end-of-course~~] assessment
21 instrument [~~instruments~~] in the manner provided under this
22 subsection. This subsection does not require a student to
23 demonstrate readiness to enroll in an institution of higher
24 education.

25 (a-4) The admission, review, and dismissal committee of a
26 student in a special education program under Subchapter A, Chapter
27 29, shall determine whether, to receive a high school diploma, the

1 student is required to achieve satisfactory performance on
2 ~~[end-of-course]~~ assessment instruments administered under Section
3 39.023(c).

4 (b) Each time an ~~[end-of-course]~~ assessment instrument
5 ~~[adopted]~~ under Section 39.023(c) is administered, a student who
6 failed to achieve a score requirement under Subsection (a) may
7 retake the assessment instrument. ~~[A student is not required to~~
8 ~~retake a course as a condition of retaking an end-of-course~~
9 ~~assessment instrument.]~~

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

15 (f-3) The commissioner shall by rule adopt a transition plan
16 to implement the amendments made by __.B. ____, Acts of the 87th
17 Legislature, Regular Session, 2021, replacing end-of-course
18 assessment instruments with one or more assessment instruments
19 selected by a school district under Section 39.023(c). The rules
20 must provide for each assessment instrument selected by a school
21 district under Section 39.023(c) to be administered beginning with
22 students enrolled in the ninth grade for the first time during the
23 2021-2022 school year. During the period under which the
24 transition from end-of-course assessment instruments is made:

25 (1) for students entering a grade above the ninth
26 grade during the 2021-2022 school year or students repeating ninth
27 grade during the 2021-2022 school year, the commissioner shall

1 retain, administer, and use for purposes of accreditation and other
2 campus and district accountability measures under this chapter the
3 end-of-course assessment instruments required by Section
4 39.023(c), as that section existed before amendment by ___B. ____,
5 Acts of the 87th Legislature, Regular Session, 2021; and

6 (2) a student subject to Subdivision (1) may not
7 receive a high school diploma unless the student has performed
8 satisfactorily on:

9 (A) each required end-of-course assessment
10 instrument administered under Section 39.023(c), as that section
11 existed before amendment by ___B. ____, Acts of the 87th
12 Legislature, Regular Session, 2021; or

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

15 SECTION 21. Section 39.034(d), Education Code, is amended
16 to read as follows:

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

- 20 (1) the grade five assessment instruments;
21 (2) the grade eight assessment instruments; and
22 (3) the [~~end-of-course~~] assessment instruments
23 required under this subchapter for graduation.

24 SECTION 22. Section 39.035(a), Education Code, is amended
25 to read as follows:

26 (a) Subject to Subsection (b), the agency may conduct field
27 testing of questions for any assessment instrument administered

1 under Section 39.023(a), (b), [~~(c), (d)~~] or (l) that is separate
2 from the administration of the assessment instrument not more
3 frequently than every other school year.

4 SECTION 23. Section 39.203(c), Education Code, is amended
5 to read as follows:

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

12 SECTION 24. Section 51.338(c), Education Code, is amended
13 to read as follows:

14 (c) A student who has achieved scores set by the board on the
15 questions developed for end-of-course assessment instruments under
16 Section 39.0233(a), as that section existed before repeal by
17 _.B. ____, Acts of the 87th Legislature, Regular Session, 2021, is
18 exempt from the requirements of this subchapter. The exemption is
19 effective for the three-year period following the date a student
20 takes the last assessment instrument for purposes of this
21 subchapter and achieves the standard set by the board. This
22 subsection does not apply during any period for which the board
23 designates the questions developed for end-of-course assessment
24 instruments under Section 39.0233(a), as that section existed
25 before repeal by .B. ____, Acts of the 87th Legislature, Regular
26 Session, 2021, as the primary assessment instrument under this
27 subchapter, except that the three-year period described by this

1 subsection remains in effect for students who qualify for an
2 exemption under this subsection before that period.

3 SECTION 25. The following provisions of the Education Code
4 are repealed:

5 (1) Sections 39.023(a-15), (c-2), (c-4), (c-6), and
6 (d);

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

9 (3) Section 39.023(c-7), as added by Chapter 1315
10 (H.B. 3906), Acts of the 86th Legislature, Regular Session, 2019;

11 (4) Section 39.0233;

12 (5) Section 39.024;

13 (6) Sections 39.025(a-1), (a-2), (a-3), (a-5), and
14 (e-1);

15 (7) Section 39.053(d-1); and

16 (8) Section 39.203(d).

17 SECTION 26. As soon as practicable after the effective date
18 of this Act, the Texas Education Agency shall adopt alternative
19 adaptive assessment instruments as required by Section 39.02342,
20 Education Code, as added by this Act.

21 SECTION 27. As soon as practicable after the effective date
22 of this Act, each school district shall provide notice to an eighth
23 grade student under Section 39.025(g), Education Code, informing
24 the student of the specific requirements applicable to the student
25 under Sections 39.023(c) and 39.025(a), Education Code, as amended
26 by this Act.

27 SECTION 28. (a) Except as provided by Subsection (b), this

1 Act applies beginning with the 2021-2022 school year.

2 (b) Section 39.02342, Education Code, as added by this Act,
3 applies beginning with the 2022-2023 school year.

4 SECTION 29. To the extent of any conflict, this Act prevails
5 over another Act of the 87th Legislature, Regular Session, 2021,
6 relating to nonsubstantive additions to and corrections in enacted
7 codes.

8 SECTION 30. This Act takes effect immediately if it
9 receives a vote of two-thirds of all the members elected to each
10 house, as provided by Section 39, Article III, Texas Constitution.
11 If this Act does not receive the vote necessary for immediate
12 effect, this Act takes effect September 1, 2021.