

By: Menéndez

S.B. No. 260

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the administration of assessment instruments in public  
3 schools and eliminating the requirement to use public school  
4 assessment instruments as a criterion for promotion or graduation  
5 or to make certain accountability determinations.

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

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

9 (c) A Job Corps diploma program shall:

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

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

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

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

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

6           SECTION 2. Section 18.006(b), Education Code, is amended to  
7 read as follows:

8           (b) In addition to other factors determined to be  
9 appropriate by the commissioner, the accountability system must  
10 include consideration of~~+~~

11           ~~[(1) student performance on the end-of-course  
12 assessment instruments required by Section 39.023(c), and~~

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

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

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

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

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

26           SECTION 4. Section 25.005(b), Education Code, is amended to  
27 read as follows:

1 (b) A reciprocity agreement must:

2 (1) address procedures for:

3 (A) transferring student records; and

4 (B) awarding credit for completed course work;

5 and

6 [~~(C) permitting a student to satisfy the~~  
7 ~~requirements of Section 39.025 through successful performance on~~  
8 ~~comparable end-of-course or other exit-level assessment~~  
9 ~~instruments administered in another state; and]~~

10 (2) include appropriate criteria developed by the  
11 agency.

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

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

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

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

23 (j) No more than 15 percent of the funds certified by the  
24 commissioner under Subsection (i) may be spent on indirect costs.  
25 The commissioner shall evaluate the programs that fail to meet the  
26 standard of performance under Section 39.301(c)(6) [~~39.301(c)(5)~~]  
27 and may implement interventions or sanctions under Chapter 39A. The

1 commissioner may audit the expenditures of funds appropriated for  
2 purposes of this section. The use of the funds appropriated for  
3 purposes of this section shall be verified as part of the district  
4 audit under Section 44.008.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21          (c) ~~[Each time a student fails to perform satisfactorily on~~  
22 ~~an assessment instrument specified under Subsection (a), the school~~  
23 ~~district in which the student attends school shall provide to the~~  
24 ~~student accelerated instruction in the applicable subject area,~~  
25 ~~including reading instruction for a student who fails to perform~~  
26 ~~satisfactorily on a reading assessment instrument. After a student~~  
27 ~~fails to perform satisfactorily on an assessment instrument a~~

1 ~~second time, a grade placement committee shall be established to~~  
2 ~~prescribe the accelerated instruction the district shall provide to~~  
3 ~~the student before the student is administered the assessment~~  
4 ~~instrument the third time. The grade placement committee shall be~~  
5 ~~composed of the principal or the principal's designee, the~~  
6 ~~student's parent or guardian, and the teacher of the subject of an~~  
7 ~~assessment instrument on which the student failed to perform~~  
8 ~~satisfactorily. The district shall notify the parent or guardian~~  
9 ~~of the time and place for convening the grade placement committee~~  
10 ~~and the purpose of the committee.] An accelerated instruction~~  
11 group administered by a school district under this section may not  
12 have a ratio of more than 10 students for each teacher.

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

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

18 (2) the accelerated instruction program to which the  
19 student is assigned[~~, and~~

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

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

26 (i) The admission, review, and dismissal committee of a  
27 student who participates in a district's special education program

1 under Subchapter A, Chapter 29, and who does not perform  
2 satisfactorily on an assessment instrument [~~specified under~~  
3 ~~Subsection (a) and~~] administered under Section 39.023(a) or (b)  
4 must meet before the student is administered the assessment  
5 instrument for the second time. The committee shall determine[+  
6            ~~(1)~~] the manner in which the student will participate  
7 in an accelerated instruction program under this section[+~~and~~  
8            ~~(2) whether the student will be promoted in accordance~~  
9 ~~with Subsection (i-1) or retained under this section]~~.

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

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

17           Sec. 28.0217. ACCELERATED INSTRUCTION FOR HIGH SCHOOL  
18 STUDENTS. Each time a student fails to perform satisfactorily on an  
19 assessment instrument required [~~administered~~] under Section  
20 39.023(c), the school district in which the student attends school  
21 shall provide to the student accelerated instruction in the  
22 applicable subject area, using funds appropriated for accelerated  
23 instruction under Section 28.0211. Accelerated instruction may  
24 require participation of the student before or after normal school  
25 hours and may include participation at times of the year outside  
26 normal school operations.

27           SECTION 12. Section 28.023(c), Education Code, is amended

1 to read as follows:

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

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

14 (b-4) A school district may offer the curriculum described  
15 in Subsections (b-1)(1) through (4) in an applied manner. Courses  
16 delivered in an applied manner must cover the essential knowledge  
17 and skills[, ~~and the student shall be administered the applicable~~  
18 ~~end-of-course assessment instrument as provided by Sections~~  
19 ~~39.023(c) and 39.025~~].

20 (b-7) The State Board of Education, in coordination with the  
21 Texas Higher Education Coordinating Board, shall adopt rules to  
22 ensure that a student may comply with the curriculum requirements  
23 under the foundation high school program or for an endorsement  
24 under Subsection (c-1) by successfully completing appropriate  
25 courses in the core curriculum of an institution of higher  
26 education under Section 61.822. Notwithstanding Subsection (b-15)  
27 or (c) [~~of this section, Section 39.025,~~] or any other provision of



1 this code and notwithstanding any school district policy, a student  
2 who has completed the core curriculum of an institution of higher  
3 education under Section 61.822, as certified by the institution in  
4 accordance with commissioner rule, is considered to have earned a  
5 distinguished level of achievement under the foundation high school  
6 program and is entitled to receive a high school diploma from the  
7 appropriate high school as that high school is determined in  
8 accordance with commissioner rule. A student who is considered to  
9 have earned a distinguished level of achievement under the  
10 foundation high school program under this subsection may apply for  
11 admission to an institution of higher education for the first  
12 semester or other academic term after the semester or other  
13 academic term in which the student completes the core curriculum.

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

17 (1) the student successfully completes the curriculum  
18 requirements identified by the State Board of Education under  
19 Subsection (a) and complies with Section [~~Sections~~] 28.0256 [~~and~~  
20 ~~39.025~~]; or

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

23 (c-8) For purposes of Subsection (c-7), the admission,  
24 review, and dismissal committee of a student in a special education  
25 program under Subchapter A, Chapter 29, shall determine whether the  
26 student is required to achieve satisfactory performance on an  
27 [~~end-of-course~~] assessment instrument required under Section

1 39.023(c) to earn an endorsement on the student's transcript.

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

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

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

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

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

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

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

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

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

27 [~~(2)~~] work experience; or

1           (2) [~~(3)~~] military or other relevant life experience.

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

4           (g) A student is entitled to a high school diploma if the  
5 student[+]

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

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

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

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

21           (1) enters the workforce;

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

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

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

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

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

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

12 (2) satisfactory performance on the reading  
13 assessment instrument under Section 39.023(a) or the [~~an~~] English  
14 language arts portion of the assessment instrument under Section  
15 39.023(c), as applicable, with the assessment instrument  
16 administered in English, or, if the student is enrolled in the first  
17 or second grade, an achievement score at or above the 40th  
18 percentile in the reading and language arts sections of an English  
19 standardized test approved by the agency; and

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

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

24 (b) Each district shall provide accelerated instruction to  
25 a student enrolled in the district who has taken the [~~an~~  
26 ~~end-of-course~~] assessment instrument required [~~administered~~] under  
27 Section 39.023(c) and has not performed satisfactorily [~~on the~~

1 ~~assessment instrument]~~ or who is at risk of dropping out of school.

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

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

10 (f) A student participating in a program authorized by this  
11 section, other than a student ordered to participate under  
12 Subsection (d)(1), ~~[must have taken the appropriate end-of-course~~  
13 ~~assessment instruments specified by Section 39.023(c) before~~  
14 ~~entering the program and]~~ must take the ~~[each appropriate~~  
15 ~~end-of-course]~~ assessment instrument required under Section  
16 39.023(c) before or [administered] during the period in which the  
17 student is enrolled in the program. Except for a student ordered to  
18 participate under Subsection (d)(1), a student participating in the  
19 program may not take the high school equivalency examination unless  
20 the student has taken the assessment instrument ~~[instruments]~~  
21 required by this subsection.

22 (l) The commissioner may revoke a school district's or  
23 open-enrollment charter school's authorization under this section  
24 after consideration of relevant factors, including ~~[performance of~~  
25 ~~students participating in the district's or school's program on~~  
26 ~~assessment instruments required under Chapter 39,~~] the percentage  
27 of students participating in the district's or school's program who

1 complete the program and perform successfully on the high school  
2 equivalency examination~~[,]~~ and other criteria adopted by the  
3 commissioner. A decision by the commissioner under this subsection  
4 is final and may not be appealed.

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

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

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

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

15 (i) A charter granted under this section must:

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

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

20 ~~[(A)]~~ successful completion of:

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

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

25 ~~[(B) satisfactory performance on the~~  
26 ~~standardized secondary exit-level assessment instrument described~~

27 ~~by Subsection (c)]~~.

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

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

12           ~~(2)~~ the percentage of program participants who  
13 successfully completed the high school program and earned a high  
14 school diploma;

15           (2) ~~(3)~~ the percentage of program participants who  
16 successfully completed career and technology education courses and  
17 obtained industry certification;

18           (3) ~~(4)~~ the percentage of program participants who  
19 have enrolled in an institution of higher education or private or  
20 independent institution of higher education, as those terms are  
21 defined under Section 61.003; and

22           (4) ~~(5)~~ the percentage of program participants who  
23 earned a wage, salary, or other income increase that was  
24 significant as determined and reported by the Texas Workforce  
25 Commission.

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

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

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

7 (2) has failed to perform satisfactorily on:

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

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

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

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

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

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

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

26 (B) secondary to postsecondary bridging that  
27 builds college readiness skills, provides a plan for college



1 completion, and ensures transition counseling; and

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

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

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

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

17 (e) The school shall cooperate with public and private  
18 agencies and organizations serving students and other persons with  
19 visual impairments in the planning, development, and  
20 implementation of effective educational and rehabilitative service  
21 delivery systems associated with educating students with visual  
22 impairments. To maximize and make efficient use of state  
23 facilities, funding, and resources, the services provided in this  
24 area may include conducting a cooperative program with other  
25 agencies to serve students who have graduated from high school by  
26 completing all academic requirements applicable to students in  
27 regular education~~[, excluding satisfactory performance under~~

1 ~~Section 39.025,~~] who are younger than 22 years of age on September 1  
2 of the school year and who have identified needs related to  
3 vocational training, independent living skills, orientation and  
4 mobility, social and leisure skills, compensatory skills, or  
5 remedial academic skills.

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

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

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

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

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

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

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

25 (m) The commissioner shall adopt rules necessary to  
26 evaluate annually the performance of each district's disciplinary  
27 alternative education program established under this subchapter.

1 The evaluation required by this section shall be based on  
2 indicators defined by the commissioner [~~, but must include student~~  
3 ~~performance on assessment instruments required under Sections~~  
4 ~~39.023(a) and (c)~~]. Academically, the mission of disciplinary  
5 alternative education programs shall be to enable students to  
6 perform at grade level.

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

9 (a) The agency shall adopt nationally recognized [~~or~~  
10 ~~develop appropriate criterion-referenced~~] assessment instruments  
11 designed to assess essential knowledge and skills in reading,  
12 [~~writing,~~] mathematics, [~~social studies,~~] and science. Except as  
13 provided by Subsection (a-2), all students, other than students  
14 assessed under Subsection (b) or (l) or exempted under Section  
15 39.027, shall be assessed in:

16 (1) mathematics, annually in grades three through  
17 eight;

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

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

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

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

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

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

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

8 (1) mathematics, annually in grades three through  
9 eight;

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

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

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

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

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

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

5           (a-3) The agency may not adopt [~~or develop~~] a  
6 criterion-referenced assessment instrument under this section  
7 based on common core state standards as defined by Section  
8 28.002(b-1). This subsection does not prohibit the use of college  
9 advanced placement tests or international baccalaureate  
10 examinations as those terms are defined by Section 28.051.

11           (a-11) Before an assessment instrument adopted [~~or~~  
12 ~~developed~~] under Subsection (a) may be administered under that  
13 subsection, the assessment instrument must, on the basis of  
14 empirical evidence, be determined to be valid and reliable by an  
15 entity that is independent of the agency and of any other entity  
16 that developed the assessment instrument.

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

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

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

26           (a-13) The amount of time allowed for administration of an  
27 assessment instrument adopted [~~or developed~~] under Subsection (a)

1 may not exceed eight hours, and the administration may occur in  
2 multiple parts over more than one day.

3 (c) The agency shall also adopt a nationally recognized  
4 multiple subject assessment instrument to be administered to  
5 students in grade 11 to assess essential knowledge and skills in  
6 mathematics, English language arts, and science [~~end-of-course~~  
7 ~~assessment instruments for secondary-level courses in Algebra I,~~  
8 ~~biology, English I, English II, and United States history. The~~  
9 ~~Algebra I end-of-course assessment instrument must be administered~~  
10 ~~with the aid of technology, but may include one or more parts that~~  
11 ~~prohibit the use of technology. The English I and English II~~  
12 ~~end-of-course assessment instruments must each assess essential~~  
13 ~~knowledge and skills in both reading and writing and must provide a~~  
14 ~~single score. A school district shall comply with State Board of~~  
15 ~~Education rules regarding administration of the assessment~~  
16 ~~instruments listed in this subsection]. If a student is in a  
17 special education program under Subchapter A, Chapter 29, the  
18 student's admission, review, and dismissal committee shall  
19 determine whether any allowable modification is necessary in  
20 administering to the student the [~~an~~] assessment instrument  
21 required under this subsection. [~~The State Board of Education~~  
22 ~~shall administer the assessment instruments. An end-of-course~~  
23 ~~assessment instrument may be administered in multiple parts over~~  
24 ~~more than one day. The State Board of Education shall adopt a~~  
25 ~~schedule for the administration of end-of-course assessment~~  
26 ~~instruments that complies with the requirements of Subsection~~  
27 ~~(c-3).~~]~~

1 (c-1) The agency shall ensure that each [~~develop any~~  
2 assessment instrument adopted [~~required~~] under this section [~~in a~~  
3 ~~manner that~~] allows for the measurement of annual improvement in  
4 student achievement as required by Sections 39.034(c) and (d).

5 (c-4) To the extent practicable and subject to Section  
6 39.024, the agency shall ensure that each [~~end-of-course~~  
7 assessment instrument adopted under Subsection (c) is:

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

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

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

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

26 (e) Under rules adopted by the State Board of Education,  
27 every third year, the agency shall release the questions and answer

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

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

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



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

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

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

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

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

26 (i) Except as provided by this subsection, the [~~The~~]  
27 provisions of this section[~~, except Subsection (d),~~] are subject to

1 modification by rules adopted under Section 39.022. The provisions  
 2 of Subsection (d) and the provisions requiring the agency to adopt a  
 3 nationally recognized assessment instrument are not subject to  
 4 modification by rules adopted under Section 39.022. Each  
 5 assessment instrument adopted under [~~those~~] rules adopted under  
 6 Section 39.022 and each assessment instrument required under  
 7 Subsections (a), (c), and [~~Subsection~~] (d) must be reliable and  
 8 valid and must meet any applicable federal requirements for  
 9 measurement of student progress.

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

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

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

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

22 (4) the corresponding scale scores.

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

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

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

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

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

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

12 SECTION 31. 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 recognized  
19 assessment instrument adopted by the agency under Section 39.023(a)  
20 or (c).

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

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

27 (1) military service; or

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

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

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

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

11           (a) The commissioner shall adopt rules requiring a student  
12 in the foundation high school program under Section 28.025 to be  
13 administered the [~~an end-of-course~~] assessment instrument required  
14 under [~~listed in~~] Section 39.023(c) [~~only for a course in which the~~  
15 ~~student is enrolled and for which an end-of-course assessment~~  
16 ~~instrument is administered~~]. Each student's performance on the  
17 assessment instrument shall be evaluated to determine whether the  
18 [A] student achieved [~~is required to achieve~~] a scale score that  
19 indicates satisfactory performance, as determined by the  
20 commissioner under Section 39.0241(a) [~~, on each end-of-course~~  
21 ~~assessment instrument administered to the student~~]. The results of  
22 the administration of the assessment instrument may not be used as  
23 criteria for graduation. The results may be used only for the  
24 purpose of diagnosing the academic strengths and deficiencies of a  
25 student and guiding specific instruction to the student. [~~For each~~  
26 ~~scale score required under this subsection that is not based on a~~  
27 ~~100-point scale scoring system, the commissioner shall provide for~~

1 ~~conversion, in accordance with commissioner rule, of the scale~~  
 2 ~~score to an equivalent score based on a 100-point scale scoring~~  
 3 ~~system. A student may not receive a high school diploma until the~~  
 4 ~~student has performed satisfactorily on end-of-course assessment~~  
 5 ~~instruments in the manner provided under this subsection. This~~  
 6 ~~subsection does not require a student to demonstrate readiness to~~  
 7 ~~enroll in an institution of higher education.]~~

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

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

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

26 (2) an exemption from the requirement under  
 27 Subdivision (1) ~~[. During the period under which the transition to~~

1 ~~end-of-course assessment instruments is made:~~

2           ~~[(1)] for students who, before [entering a grade above~~  
3 ~~the ninth grade during] the 2021-2022 [2011-2012] school year, have~~  
4 ~~been administered the Algebra I, biology, English I, and English II~~  
5 ~~end-of-course assessment instruments [or students repeating ninth~~  
6 ~~grade during the 2011-2012 school year, the commissioner shall~~  
7 ~~retain, administer, and use for purposes of accreditation and other~~  
8 ~~campus and district accountability measures under this chapter the~~  
9 ~~assessment instruments required by Section 39.023(a) or (c), as~~  
10 ~~that section existed before amendment by Chapter 1312 (S.B.~~

11 ~~No. 1031), Acts of the 80th Legislature, Regular Session, 2007; and~~

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

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

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

- 26                   (1) the grade five assessment instruments;
- 27                   (2) the grade eight assessment instruments; and



1 ~~determined by the commissioner under Section 39.0241(a), the~~  
2 ~~percentage of students who performed satisfactorily on the~~  
3 ~~assessment instruments, aggregated across grade levels by subject~~  
4 ~~area; and~~

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

10 ~~[(ii) an indicator that accounts for the~~  
11 ~~results of assessment instruments required under Section~~  
12 ~~39.023(b), as applicable for the district and campus, including the~~  
13 ~~percentage of students who performed satisfactorily on the~~  
14 ~~assessment instruments, as determined by the performance standard~~  
15 ~~adopted by the agency, aggregated across grade levels by subject~~  
16 ~~area]; and~~

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

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

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



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

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

5 (v) students who earn industry  
6 certifications;

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

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

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

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

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

27 (xi) students who successfully completed a

1 practicum or internship approved by the State Board of Education;  
2 and

3 (xii) students who are awarded an associate  
4 degree;

5 (2) in the school progress domain, indicators for  
6 effectiveness in promoting student learning, which must include[+]

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

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

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

18 (A) students formerly receiving special  
19 education services;

20 (B) students continuously enrolled; and

21 (C) students who are mobile.

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

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

26 (1) must[+]

27 [~~(A)~~] be based on data collected through the

1 Public Education Information Management System (PEIMS) for  
2 purposes of accountability under this chapter; and

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

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

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

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

1 applicable.

2 SECTION 40. Section 39.203(c), Education Code, is amended  
3 to read as follows:

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

10 SECTION 41. Sections 39.301(c) and (d), Education Code, are  
11 amended to read as follows:

12 (c) Indicators for reporting purposes must include:

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

16 (A) the foundation high school program;

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

19 (C) each endorsement described by Section  
20 28.025(c-1);

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

23 (3) the percentage of students, aggregated by grade  
24 level and subject area, who satisfy each performance standard under  
25 Section 39.0241 on assessment instruments required under:

26 (A) Section 39.023(a); and

27 (B) Section 39.023(c);

1           (4) for students who have failed to perform  
2 satisfactorily, under each performance standard under Section  
3 39.0241, on an assessment instrument required under Section  
4 39.023(a) or (c), the performance of those students on subsequent  
5 assessment instruments required under those sections, aggregated  
6 by grade level and subject area;

7           (5) [~~(4)~~] for each campus, the number of students,  
8 disaggregated by major student subpopulations, that take courses  
9 under the foundation high school program and take additional  
10 courses to earn an endorsement under Section 28.025(c-1),  
11 disaggregated by type of endorsement;

12           (6) [~~(5)~~] the percentage of students, aggregated by  
13 grade level, provided accelerated instruction under Section  
14 28.0211 [~~28.0211(c), the results of assessment instruments~~  
15 ~~administered under that section, the percentage of students~~  
16 ~~promoted through the grade placement committee process under~~  
17 ~~Section 28.0211]~~, the subject of the assessment instrument on which  
18 each student failed to perform satisfactorily under each  
19 performance standard under Section 39.0241, and the performance of  
20 those students in the following school year [~~following that~~  
21 ~~promotion]~~ on the assessment instruments required under Section  
22 39.023;

23           (7) [~~(6)~~] the percentage of students of limited  
24 English proficiency exempted from the administration of an  
25 assessment instrument under Sections 39.027(a)(1) and (2);

26           (8) [~~(7)~~] the percentage of students in a special  
27 education program under Subchapter A, Chapter 29, assessed through

1 assessment instruments developed or adopted under Section  
2 39.023(b);

3 ~~[(8) the percentage of students who satisfy the~~  
4 ~~college readiness measure,]~~

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

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

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

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

16 (d) Performance on the indicators described by Section  
17 39.053(c) and Subsections (c)(3), (4), (5), and (9) must be based on  
18 longitudinal student data that is disaggregated by the bilingual  
19 education or special language program, if any, in which students of  
20 limited English proficiency, as defined by Section 29.052, are or  
21 former students of limited English proficiency were enrolled. If a  
22 student described by this subsection is not or was not enrolled in  
23 specialized language instruction, the number and percentage of  
24 those students shall be provided.

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

27 (b) The report card shall include the following

1 information:

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

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

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

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

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

14 (20) The report must contain a comparison of the  
15 performance of open-enrollment charter schools and school  
16 districts on the achievement indicators described by Section  
17 39.053(c) and [~~7~~] the reporting indicators described by Section  
18 39.301(c), [~~and the accountability measures adopted under Section~~  
19 ~~39.053(i)~~] with a separately aggregated comparison of the  
20 performance of open-enrollment charter schools predominantly  
21 serving students at risk of dropping out of school, as described by  
22 Section 29.081(d), with the performance of school districts.

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

25 (c) A student who has achieved scores set by the board on the  
26 questions developed for end-of-course assessment instruments under  
27 Section 39.0233(a), as that section existed before repeal by

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

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

- 16 (1) Section 12.104(b-2);
- 17 (2) Section 19.0043(c);
- 18 (3) Section 21.4551(c);
- 19 (4) Sections 28.0211(a), (a-2), (b), (e), (f), (i-1),  
20 (i-2), (n), (o), and (p);
- 21 (5) Sections 28.025(c-6) and (d);
- 22 (6) Section 28.0255(h);
- 23 (7) Section 28.0258;
- 24 (8) Section 28.0259;
- 25 (9) Section 29.259(c);
- 26 (10) Section 30.104(c);
- 27 (11) Sections 39.023(a-1), (c-2), (c-6), and (c-8);



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

3           (13) Section 39.0231;

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

5           (15) Section 39.0233;

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

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

10          (18) Section 39.203(d).

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

17          SECTION 47. (a) As soon as practicable, each school  
18 district that provided notice to an eighth grade student during the  
19 2020-2021 school year under Section 39.025(g), Education Code, as  
20 that section existed before the repeal by this Act, shall send an  
21 updated notice to that student informing the student of the  
22 specific requirements applicable to the student under Sections  
23 39.023(c) and 39.025(a), Education Code, as amended by this Act.

24          (b) As soon as practicable, the commissioner of education  
25 shall determine the level of performance considered to be  
26 satisfactory as required under Section 39.0241(a), Education Code,  
27 on the assessment instrument required under Section 39.023(c),

1 Education Code, as amended by this Act.

2           SECTION 48. The Texas Education Agency shall, to the  
3 greatest extent practicable, apply cost savings that result from  
4 implementing the changes made by this Act to support any program  
5 eligible under Title I, Elementary and Secondary Education Act of  
6 1965 (20 U.S.C. Section 6301 et seq.).

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

9           SECTION 50. This Act takes effect immediately if it  
10 receives a vote of two-thirds of all the members elected to each  
11 house, as provided by Section 39, Article III, Texas Constitution.  
12 If this Act does not receive the vote necessary for immediate  
13 effect, this Act takes effect September 1, 2021.