By:  Bell of Kaufman, Buckley, VanDeaver, H.B. No. 4402

     Landgraf, Talarico, et al.

A BILL TO BE ENTITLED

AN ACT

relating to the administration of certain assessment instruments, the accountability rating system for assessing campus and district performance, public school career and technology education programs, and an extracurricular and cocurricular allotment under the Foundation School Program.

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

SECTION 1.  Section 29.182(b), Education Code, is amended to read as follows:

(b)  The state plan must include procedures designed to ensure that:

(1)  all secondary and postsecondary students have the opportunity to participate in career and technology education programs;

(2)  the state complies with requirements for supplemental federal career and technology education funding;

(3)  career and technology education is established as a part of the total education system of this state and constitutes an option for student learning that provides a rigorous course of study consistent with the required curriculum under Section 28.002 and under which a student may receive specific education in a career and technology program that:

(A)  incorporates competencies leading to academic and technical skill attainment;

(B)  leads to:

(i)  an industry-recognized license, credential, or certificate; or

(ii)  at the postsecondary level, an associate or baccalaureate degree;

(C)  includes opportunities for students to earn college credit for coursework; and

(D)  includes, as an integral part of the program, participation by students and teachers in activities of career and technical student organizations supported by the agency and the State Board of Education; [~~and~~]

(4)  a school district provides, to the greatest extent possible, to a student participating in a career and technology education program opportunities to enroll in dual credit courses designed to lead to a degree, license, or certification as part of the program; and

(5)  courses of study in a Junior Reserve Officer Training Corps program or Leadership Officer Training Corps program are provided as part of a career and technology education program.

SECTION 2.  Sections 39.023(e), (h), and (o), Education Code, are amended to read as follows:

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

(h)  The agency shall notify school districts and campuses of the results of assessment instruments administered under this section not later than the 21st day after the last date on which the assessment instrument may be [~~is~~] administered, except that the agency may delay the notification if necessary to maintain validity and reliability standards. The school district shall disclose to each district teacher the results of assessment instruments administered to students taught by the teacher in the subject for the school year in which the assessment instrument is administered.

(o)  The agency shall adopt or develop optional interim assessment instruments for each subject or course for each grade level for which a through-year assessment instrument under Section 39.0236 is not required [~~subject to assessment under this section~~]. A school district or open-enrollment charter school may not be required to administer interim assessment instruments adopted or developed under this subsection. An interim assessment instrument:

(1)  must be:

(A)  when possible, predictive of the assessment instrument for the applicable subject or course for that grade level required under this section; and

(B)  administered electronically; and

(2)  may not be used for accountability purposes.

SECTION 3.  Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.02301 to read as follows:

Sec. 39.02301.  OPTIONAL USE OF WRITING PORTFOLIO ASSESSMENT. (a) A school district may elect to use a writing portfolio assessment to assess writing performance for students enrolled in the district as an alternative to administering the portion of a reading assessment instrument under Section 39.023(a) or English I or English II end-of-course assessment instrument under Section 39.023(c) that is not presented in a multiple choice format.

(b)  A school district that elects to use a writing portfolio assessment under this section shall design the assessment in consultation with a public or private institution of higher education and submit the assessment to the agency for approval. The agency shall approve the assessment if the assessment is:

(1)  determined by the public or private institution of higher education that consulted on the design of the assessment to be valid and reliable; and

(2)  designed to assess:

(A)  a student's mastery of the essential knowledge and skills in writing through timed writing samples;

(B)  improvement of a student's writing skills from the beginning of the school year to the end of the school year;

(C)  a student's ability to follow the writing process from rough draft to final product; and

(D)  a student's ability to produce more than one type of writing style.

(c)  A school district that elects to use a writing portfolio assessment under this section may adopt a policy allowing the assessment to be scored by a classroom teacher assigned to the same campus as the student to whom the assessment is administered. The district may coordinate with the regional education service center for the district's region in grading the assessments.

(d)  A school district that elects to use a writing portfolio assessment under this section is not required to administer the portion of a reading assessment instrument under Section 39.023(a) or English I or English II end-of-course assessment instrument under Section 39.023(c) that is not presented in a multiple choice format during the period the district is administering the writing portfolio assessment. The agency shall, to the greatest extent practicable, apply cost savings that result from the exemption under this subsection to offset the costs accrued under this section.

(e)  The commissioner shall adopt rules as necessary to implement this section.

SECTION 4.  Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.02342 to read as follows:

Sec. 39.02342.  PAPER ADMINISTRATION OF ASSESSMENT INSTRUMENTS ON REQUEST. (a) Subject to Subsection (c), a school district shall administer an assessment instrument required under Section 39.023(a), (c), or (l) in paper format to any student whose parent or guardian requests the assessment instrument be administered to the student in paper format.

(b)  A request for the administration of an assessment instrument in paper format to a student under this section must be submitted to the school district not later than December 1 of the school year in which the assessment instrument will be administered.

(c)  The number of students enrolled at a school district who are administered an assessment instrument in paper format for any single administration under this section may not exceed three percent of the number of students enrolled in the district. On receipt of more requests for administration of an assessment instrument than the maximum number permitted under this subsection, the district shall accept the requests in the order received until the maximum number is reached.

SECTION 5.  Section 39.0236, Education Code, is amended to read as follows:

Sec. 39.0236.  THROUGH-YEAR [~~INTEGRATED FORMATIVE~~] ASSESSMENT [~~PILOT~~] PROGRAM. (a) Notwithstanding any other law and except as otherwise provided by commissioner rule, beginning with the 2027-2028 school year, the agency shall adopt or develop a through-year assessment for each subject and grade for which an assessment instrument is required under Section 39.023(a) or (c), including a through-year assessment in Spanish for administration to emergent bilingual students, as required under Section 39.023(l), for each subject and grade level for which an assessment instrument in Spanish may be administered under that subsection. A through-year assessment adopted or developed under this section shall consist of the administration of not more than three assessment instruments over the course of a school year [~~The agency shall establish a pilot program in which participating school districts administer to students integrated formative assessment instruments for subjects or courses for a grade level subject to assessment under Section 28.006 or 39.023~~].

(b)  The agency shall develop and implement a plan to transition each assessment instrument required under Sections 39.023(a), (c), and (l) to a through-year assessment instrument beginning with the 2027-2028 school year. The plan must:

(1)  evaluate the administration of through-year assessment instruments in this state, including an analysis of instructional support improvements provided by school districts administering through-year assessment instruments; and

(2)  identify the actions necessary to improve the administration of through-year assessment instruments, including necessary changes to state law or policy [~~A school district may elect to participate in the pilot program~~].

(c)  The agency may require a school district to:

(1)  participate in a pilot program for the administration of through-year assessment instruments to district students; and

(2)  report information to the agency regarding the implementation of through-year assessment instruments under this section [~~A school district's participation in the pilot program does not affect the district's obligations regarding the administration of assessment instruments required under Section 39.023~~].

(d)  The score on a through-year assessment instrument administered to a student in grades three through eight shall be calculated as a summative score of each instrument administered during the school year as part of the through-year assessment. The commissioner shall adopt rules regarding the relative weights that must be given to each individual assessment instrument administered as part of the through-year assessment [~~Not later than December 1 of each even-numbered year, the agency shall submit to the governor, the lieutenant governor, and the members of the legislature a report on the pilot program that includes:~~

[~~(1)  an analysis of whether the administration of integrated formative assessment instruments under the pilot program provided any improvement in instructional support during the preceding two school years; and~~

[~~(2)  a determination of the feasibility of replacing the assessment instruments required under Section 39.023 with integrated formative assessment instruments~~].

SECTION 6.  Section 39.0263, Education Code, is amended by adding Subsection (e) to read as follows:

(e)  This section expires September 1, 2027.

SECTION 7.  Section 39.053, Education Code, is amended by amending Subsections (c) and (c-2) and adding Subsections (c-4) and (c-5) to read as follows:

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

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

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

(i)  an indicator that accounts for the results of assessment instruments required under Sections 39.023(a), (c), and (l), as applicable for the district and campus, [~~including the results of assessment instruments required for graduation retaken by a student,~~] aggregated across grade levels by subject area, including:

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

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

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

(iii)  an indicator that accounts for extracurricular and cocurricular student success in accordance with Section 39.0533;

(iv)  an indicator that accounts for successful completion of middle school career and technology education courses; and

(v)  an indicator that accounts for middle school student success in accelerated mathematics; and

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

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

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

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

(iv)  students who demonstrate military readiness by:

(a)  enlisting [~~enlist~~] in the armed forces of the United States or the Texas National Guard;

(b)  achieving a passing score set by the applicable military branch on the Armed Services Vocational Aptitude Battery test; or

(c)  successfully completing a Junior Reserve Officer Training Corps program;

(v)  students who earn industry certifications;

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

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

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

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

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

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

(xii)  students who are awarded an associate degree; and

(xiii)  students who successfully completed a program of study in career and technical education;

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

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

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

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

[~~(A)  students formerly receiving special education services;~~

[~~(B)  students continuously enrolled; and~~

[~~(C)  students who are mobile~~].

(c-2)  The commissioner by rule shall determine a method by which a student's performance may be included in determining the performance rating of a school district or campus under Section 39.054 if, before the student graduates, the student[~~:~~

[~~(1)~~]  satisfies the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board under Section 51.334 on an assessment instrument designated by the coordinating board under that section [~~; or~~

[~~(2) performs satisfactorily on an assessment instrument under Section 39.023(c), notwithstanding Subsection (d) of this section~~].

(c-4)  Notwithstanding any other provision of this section, an indicator adopted under Subsection (c) may not be included in determining the performance rating of a school district or campus under Section 39.054 unless it has been determined to be valid and reliable by the commissioner and through a peer review process.

(c-5)  Beginning with the 2027-2028 school year, in calculating the performance of a campus providing instruction in grades three through eight in the student achievement domain under Subsection (c)(1):

(1)  indicators adopted under Subsections (c)(1)(A)(i) and (ii) may not collectively contribute more than 80 percent of the score assigned to the campus; and

(2)  indicators adopted under Subsections (c)(1)(A)(iii), (iv), and (v) may not collectively contribute more than 20 percent of the score assigned to the campus.

SECTION 8.  Sections 39.0533(a), (b), and (c), Education Code, are amended to read as follows:

(a)  Beginning with the 2027-2028 school year, the [~~The~~] commissioner shall [~~study the feasibility of incorporating~~] adopt for evaluating school district and campus performance under this subchapter an indicator that accounts for student participation in extracurricular and cocurricular activities as provided by Section 39.053(c)(1)(A)(iii) [~~student activity~~].

(b)  In adopting an indicator under Subsection (a), the commissioner may [~~If the commissioner determines that an extracurricular and cocurricular student activity indicator is appropriate, the commissioner may adopt the indicator.~~

[~~(b)  To determine the feasibility of adopting an indicator under this section, the commissioner may~~] require a school district or campus to:

(1)  participate in a pilot program implementing an indicator under Subsection (a); or

(2)  implement components of and report requested information necessary to develop and implement an indicator under Subsection (a) [~~relating to extracurricular and cocurricular student activity~~].

(c)  The commissioner shall [~~may~~] establish an advisory committee to assist in developing and [~~determining the feasibility of~~] incorporating the [~~an extracurricular and cocurricular student activity~~] indicator under Subsection (a) [~~for evaluating school district and campus performance~~].

SECTION 9.  Section 39.054, Education Code, is amended by adding Subsection (f) to read as follows:

(f)  Notwithstanding any other law or regulation, for purposes of assigning school districts and campuses overall and domain performance ratings under Subsection (a) for the 2022-2023 and 2023-2024 school years, the commissioner shall set the rating standards for the college, career, and military readiness indicators under Section 39.053(c)(1)(B) using the specific criteria and calculations for 2022 described by 19 T.A.C. Section 97.1001(b) as that rule existed on January 1, 2023, including cut scores, scaling, and targets. If the commissioner determines that a waiver or authorization from the United States Department of Education is necessary for the implementation of this subsection, the commissioner shall request the waiver or authorization and may delay the implementation of this subsection until the waiver or authorization is granted. This subsection expires December 1, 2024.

SECTION 10.  Subchapter C, Chapter 39, Education Code, is amended by adding Section 39.0547 to read as follows:

Sec. 39.0547.  LOCAL ACCOUNTABILITY SYSTEM GRANT PROGRAM. From money appropriated for that purpose, the agency shall provide grants to school districts and open-enrollment charter schools for the planning and implementation of local accountability systems under Section 39.0544.

SECTION 11.  Subchapter C, Chapter 48, Education Code, is amended by adding Section 48.116 to read as follows:

Sec. 48.116.  EXTRACURRICULAR AND COCURRICULAR ALLOTMENT. A school district is entitled to an annual allotment for each student in average daily attendance equal to the basic allotment, or, if applicable, the sum of the basic allotment and the allotment under Section 48.101 to which the district is entitled, multiplied by .003.

SECTION 12.  Sections 39.023(g) and 39.0533(d) and (e), Education Code, are repealed.

SECTION 13.  (a)  Except as provided by Subsection (b) of this section, this Act applies beginning with the 2023-2024 school year.

(b)  The expiration of Section 39.0263, Education Code, applies with respect to the statewide assessment program under Chapter 39 of that code, beginning with the 2027-2028 school year.

SECTION 14.  (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.

(b)  Section 48.116, Education Code, as added by this Act, takes effect September 1, 2023.