

By: Landgraf

H.B. No. 1267

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 12.260(c), Education Code, is amended to read as follows:

(c) For a school year before the 2025-2026 school year, the agency shall adopt and administer one or more ~~[the Algebra I, English II, and biology end-of-course]~~ assessment instruments designated ~~[instruments adopted]~~ under Section 39.023(c) as the secondary exit-level assessment instrument required under this section. The level of performance considered to be satisfactory on those assessment instruments for purposes of this subsection is the level of performance considered to be satisfactory under Section 39.0241(a) ~~[adopted under 19 T.A.C. Section 101.4003(a), as that rule existed on January 1, 2021]~~. This subsection expires September 1, 2025.

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

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

(1) student performance on the ~~[end-of-course]~~ assessment instruments 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 3. 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 instruments administered in another state; and

(2) include appropriate criteria developed by the agency.

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

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

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

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

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

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

SECTION 5. Section 28.0211(o), Education Code, is amended to read as follows:

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

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

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

SECTION 6. Section 28.023(c), Education Code, is amended to read as follows:

(c) A school district shall give a student in grade level six or above credit for a subject on the basis of an examination for credit in the subject approved by the board of trustees under Subsection (a) if the student scores in the 80th percentile or above

1 on the examination or if the student achieves a score as provided by  
2 Subsection (c-1). If a student is given credit in a subject on the  
3 basis of an examination, the district shall enter the examination  
4 score on the student's transcript [~~and the student is not required~~  
5 ~~to take an end-of-course assessment instrument adopted under~~  
6 ~~Section 39.023(c) for that subject~~].

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

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

15 (c-8) For purposes of Subsection (c-7), the admission,  
16 review, and dismissal committee of a student in a special education  
17 program under Subchapter A, Chapter 29, shall determine whether the  
18 student is required to achieve satisfactory performance on an  
19 [~~end-of-course~~] assessment instrument administered under Section  
20 39.023(c) to earn an endorsement on the student's transcript.

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

24 (g) A student entering the ninth grade for the first time  
25 beginning with the 2023-2024 school year is entitled to a high  
26 school diploma if the student:

27 (1) successfully complies with the curriculum

requirements specified under Subsection (e); and

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

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

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

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

(A) each assessment instrument selected under Section 39.023(c) by the school district in which the student is enrolled; or

(B) assessment instruments listed under Section 39.023(c), as that section existed before amendment by \_\_.B. \_\_\_\_, Acts of the 88th Legislature, Regular Session, 2023, for courses in which the student was enrolled.

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

SECTION 9. Section 28.0258, Education Code, is amended by amending Subsections (a), (b), (f), (h), (j), and (k) and adding Subsections (m) and (n) to read as follows:

(a) This section applies only to an 11th or 12th grade

1 student who has failed to comply with the ~~[end-of-course]~~  
2 assessment instrument performance requirements under Section  
3 39.025 for not more than two subjects identified under Section  
4 39.023(c) ~~[courses]~~.

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

12 (1) the principal or principal's designee;

13 (2) for each subject identified under Section  
14 39.023(c) for ~~[end-of-course assessment instrument on]~~ which the  
15 student failed to perform satisfactorily on the appropriate  
16 corresponding required assessment instrument, a ~~[the]~~ teacher of  
17 the student in that subject, designated by the principal ~~[course]~~;

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

20 (4) as applicable:

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

23 (B) a designated advocate described by  
24 Subsection (c) if the person described by Paragraph (A) is unable to  
25 serve; or

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

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

(1) additional remediation; and

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

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

(B) the preparation of a portfolio of work samples in the subject area ~~[of the course]~~, including work samples ~~[from the course]~~ that demonstrate proficiency in the subject area.

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

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

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

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

(4) the student's performance on any additional

requirements recommended by the committee under Subsection (f);

(5) the number of hours of remediation that the student has attended, including[+]

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

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

(6) the student's school attendance rate;

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

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

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

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

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

(12) the student's score on:

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

(B) the Armed Services Vocational Aptitude Battery test;



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

4 (14) the student's overall preparedness for  
5 postsecondary success; and

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

8 (j) Notwithstanding any action taken by an individual  
9 graduation committee under this section, a school district shall  
10 administer an ~~[end-of-course]~~ assessment instrument required under  
11 Section 39.023(c) to any student who fails to perform  
12 satisfactorily on an ~~[end-of-course]~~ assessment instrument  
13 required under Section 39.023(c) as provided by Section 39.025(b).  
14 For purposes of Section 39.053(c)(1), an assessment instrument  
15 administered as provided by this subsection is considered an  
16 assessment instrument required for graduation retaken by a student.

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

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

21 (1) for purposes of Subsection (a), this section  
22 applies only to an 11th or 12th grade student who has failed to  
23 comply with the end-of-course assessment instrument performance  
24 requirements under Section 39.025, as that section existed before  
25 amendment by \_\_.B. \_\_\_\_, Acts of the 88th Legislature, Regular  
26 Session, 2023, for not more than two courses listed in Section  
27 39.023(c), as that section existed before amendment by \_\_.B. \_\_\_\_,

1 Acts of the 88th Legislature, Regular Session, 2023;

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

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

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

13 (n) Subsection (m) and this subsection expire September 1,  
14 2027.

15 SECTION 10. Sections 29.081(b) and (b-1), Education Code,  
16 are amended to read as follows:

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

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

SECTION 11. Section 29.087(f), Education Code, is amended to read as follows:

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

SECTION 12. Section 29.402(b), Education Code, is amended to read as follows:

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

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

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

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

(B) an assessment instrument administered under

1 Section 39.023(c) as that section existed before amendment by \_\_\_B.  
2 \_\_\_\_, Acts of the 88th Legislature, Regular Session, 2023; or

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

7 SECTION 13. Section 29.9091(b), Education Code, is amended  
8 to read as follows:

9 (b) A school district or open-enrollment charter school  
10 that operates a full-time local remote learning program must:

11 (1) include in the program:

12 (A) at least one grade level in which an  
13 assessment instrument is required to be administered under Section  
14 39.023(a), including each subject for which an assessment  
15 instrument is required; or

16 (B) a complete high school program, including  
17 each subject ~~[course]~~ for which an ~~[end-of-course]~~ assessment  
18 instrument is required to be administered under Section 39.023(c);  
19 and

20 (2) offer the option for a student's parent or person  
21 standing in parental relation to select in-person instruction for  
22 the student.

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

27 (a) The agency shall adopt or develop appropriate

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

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

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

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

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

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

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

26 (b-1) The agency, in conjunction with appropriate  
27 interested persons, shall redevelop assessment instruments adopted

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

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

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

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

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

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

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

26 (c-5) A student's performance on an ~~[end-of-course]~~  
27 assessment instrument administered ~~[required]~~ under Subsection (c)



1 must be included in the student's academic achievement record.

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

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

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

1 scoring of the assessment instrument, and distribute within a  
2 reasonable period the results to the agency and the relevant  
3 results to each school district. As soon as practicable after the  
4 district receives the results from the vendor under this  
5 subsection, the 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 student's parent or person standing in parental relation to the  
10 student that states the student's results and whether the student  
11 performed satisfactorily on the assessment instrument ~~[The state~~  
12 ~~may pay the costs of purchasing and scoring the adopted assessment~~  
13 ~~instrument and of distributing the results of the adopted~~  
14 ~~instrument to the school districts. A district that administers~~  
15 ~~the norm-referenced test adopted under this subsection shall report~~  
16 ~~the results to the agency in a manner prescribed by the~~  
17 ~~commissioner].~~

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

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

27 (i) The provisions of this section ~~[, except Subsection~~

~~(d),~~ are subject to modification by rules adopted under Section 39.022. Each assessment instrument adopted or designated under those rules ~~[and each assessment instrument required under Subsection (d)]~~ must be reliable and valid and must meet any applicable federal requirements for measurement of student progress.

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

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

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

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

(4) the corresponding scale scores.

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

1 to meet the minimum requirements of that Act.

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

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

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

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

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

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

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

23 (c) Subsection (b)(2) does not prohibit a general academic  
24 teaching institution from implementing an admission policy that  
25 takes into consideration a student's performance on an  
26 ~~[end-of-course]~~ assessment instrument administered under Section  
27 39.023(c) in addition to other criteria.

SECTION 17. Section 39.0234(a), Education Code, is amended to read as follows:

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

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

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

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

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

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

SECTION 19. Subchapter B, Chapter 39, Education Code, is amended by adding Sections 39.02342 and 39.0239 to read as follows:

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

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

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

(2) evidence high content or concurrent validity;

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

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

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

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

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

1       (d) A school district shall administer an alternative  
2 adaptive assessment instrument adopted under this section  
3 electronically.

4       (e) The agency shall:

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

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

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

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

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

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

27       (j) The commissioner shall adopt rules necessary to

implement this section, including a rule providing the number and schedule of administrations of alternative adaptive assessment instruments under this section and requiring the administration of one alternative adaptive assessment instrument:

(1) at the beginning of each school year;

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

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

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

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

(b) If the United States Department of Education fails to grant a waiver requested under Subsection (a), the assessment



instruments shall be administered as required under Section 39.023 during the applicable school year, but, notwithstanding any other law, the commissioner may not consider the results of the assessment instruments for purposes of:

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

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

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

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

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

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

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

17 (a-4) The admission, review, and dismissal committee of a  
18 student in a special education program under Subchapter A, Chapter  
19 29, shall determine whether, to receive a high school diploma, the  
20 student is required to achieve satisfactory performance on  
21 [~~end-of-course~~] assessment instruments administered under Section  
22 39.023(c).

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

~~assessment instrument.]~~

(b-1) A school district shall provide each student who fails to perform satisfactorily as determined by the commissioner under Section 39.0241(a) on an ~~[end-of-course]~~ assessment instrument administered under Section 39.023(c) with accelerated instruction under Section 28.0217 ~~[in the subject assessed by the assessment instrument]~~.

(f-3) The commissioner shall by rule adopt a transition plan to implement the amendments made by .B. \_\_\_\_, Acts of the 88th Legislature, Regular Session, 2023, replacing end-of-course assessment instruments with one or more assessment instruments selected by a school district under Section 39.023(c). The rules must provide for each assessment instrument selected by a school district under Section 39.023(c) to be administered beginning with students enrolled in the ninth grade for the first time during the 2023-2024 school year. During the period under which the transition from end-of-course assessment instruments is made:

(1) for students entering a grade above the ninth grade during the 2023-2024 school year or students repeating ninth grade during the 2023-2024 school year, the commissioner shall retain, administer, and use for purposes of accreditation and other campus and district accountability measures under this chapter the end-of-course assessment instruments required by Section 39.023(c), as that section existed before amendment by .B. \_\_\_\_, Acts of the 88th Legislature, Regular Session, 2023; and

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

1 satisfactorily on:

2 (A) each required end-of-course assessment  
3 instrument administered under Section 39.023(c), as that section  
4 existed before amendment by .B. \_\_\_\_\_, Acts of the 88th Legislature,  
5 Regular Session, 2023; or

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

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

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

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

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

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

24 SECTION 23. Subchapter C, Chapter 39, Education Code, is  
25 amended by adding Section 39.0547 to read as follows:

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

district campus that:

(1) has a campus identification number;

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

(3) has a student enrollment in which:

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

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

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

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

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

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

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

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

4 (2) complies with applicable federal law.

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

10 (e) Not later than December 1, 2026, the commissioner shall  
11 submit to the governor, the lieutenant governor, the speaker of the  
12 house of representatives, and the standing legislative committees  
13 with primary jurisdiction over public education a report on the  
14 effectiveness of this section in evaluating specialized support  
15 campuses and any recommendations for legislative or other action.

16 (f) This section expires September 1, 2027.

17 SECTION 24. Section 39.203(c), Education Code, is amended  
18 to read as follows:

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

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

27 (c) A student who has achieved scores set by the board on the

1 questions developed for end-of-course assessment instruments under  
2 Section 39.0233(a), as that section existed before repeal by  
3 .B. \_\_\_\_\_, Acts of the 88th Legislature, Regular Session, 2023, is  
4 exempt from the requirements of this subchapter. The exemption is  
5 effective for the three-year period following the date a student  
6 takes the last assessment instrument for purposes of this  
7 subchapter and achieves the standard set by the board. This  
8 subsection does not apply during any period for which the board  
9 designates the questions developed for end-of-course assessment  
10 instruments under Section 39.0233(a), as that section existed  
11 before repeal by .B. \_\_\_\_\_, Acts of the 88th Legislature, Regular  
12 Session, 2023, as the primary assessment instrument under this  
13 subchapter, except that the three-year period described by this  
14 subsection remains in effect for students who qualify for an  
15 exemption under this subsection before that period.

16 SECTION 26. The following provisions of the Education Code  
17 are repealed:

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

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

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

3       SECTION 28. As soon as practicable after the effective date  
4 of this Act, each school district shall provide notice to an eighth  
5 grade student under Section 39.025(g), Education Code, informing  
6 the student of the specific requirements applicable to the student  
7 under Sections 39.023(c) and 39.025(a), Education Code, as amended  
8 by this Act.

9       SECTION 29. (a) Except as provided by Subsection (b), this  
10 Act applies beginning with the 2023-2024 school year.

11       (b) Section 39.02342, Education Code, as added by this Act,  
12 applies beginning with the 2024-2025 school year.

13       SECTION 30. Not later than January 1, 2024, the Texas  
14 Education Agency shall apply to the United States Department of  
15 Education for a waiver of the annual alternate assessment of  
16 students with significant cognitive disabilities required under  
17 the Every Student Succeeds Act (20 U.S.C. Section 6301 et seq.) and  
18 the Individuals with Disabilities Education Act (20 U.S.C. Section  
19 1400 et seq.).

20       SECTION 31. This Act takes effect immediately if it  
21 receives a vote of two-thirds of all the members elected to each  
22 house, as provided by Section 39, Article III, Texas Constitution.  
23 If this Act does not receive the vote necessary for immediate  
24 effect, this Act takes effect September 1, 2023.