

By: Bell

H.B. No. 1191

A BILL TO BE ENTITLED

AN ACT

relating to secondary-level assessment of public school students and the use of individual graduation committees to satisfy certain public high school graduation requirements.

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

SECTION 1. Effective August 31, 2017, Section 12.104(b-2), Education Code, is amended to read as follows:

(b-2) An open-enrollment charter school is subject to the requirement to establish an individual graduation committee under Section 28.0258. ~~[This subsection expires September 1, 2017.]~~

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

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

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

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

SECTION 3. Section 25.005(b), Education Code, is amended to read as follows:

(b) A reciprocity agreement must:

(1) address procedures for:

- 1 (A) transferring student records;
- 2 (B) awarding credit for completed course work;
- 3 and
- 4 (C) permitting a student to satisfy the
- 5 requirements of Section 39.025 through successful performance on
- 6 comparable ~~[end-of-course or other exit-level]~~ assessment
- 7 instruments administered in another state; and
- 8 (2) include appropriate criteria developed by the
- 9 agency.

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

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

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

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

21 (B) coursework, a college entrance examination,  
22 or an assessment instrument designated under Section 51.3062(c)  
23 indicates that the student is not ready to perform entry-level  
24 college coursework; and

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

27 SECTION 5. Section 28.0211(o), Education Code, is amended

1 to read as follows:

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

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

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

15 SECTION 6. Section 28.0217, Education Code, is amended to  
16 read as follows:

17 Sec. 28.0217. ACCELERATED INSTRUCTION FOR HIGH SCHOOL  
18 STUDENTS. (a) Each time a student fails to perform satisfactorily  
19 on an 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.

24 (b) Accelerated instruction may require participation of  
25 the student before or after normal school hours and may include  
26 participation at times of the year outside normal school  
27 operations. The district shall schedule accelerated instruction in

1 a manner that provides adequate flexibility in the student's  
2 schedule to ensure that the student is academically on track to  
3 complete the student's personal graduation plan.

4 SECTION 7. Section 28.023(c), Education Code, is amended to  
5 read as follows:

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

16 SECTION 8. Section 28.025(b-4), Education Code, is amended  
17 to read as follows:

18 (b-4) A school district may offer the curriculum described  
19 in Subsections (b-1)(1) through (4) in an applied manner. Courses  
20 delivered in an applied manner must cover the essential knowledge  
21 and skills~~[, and the student shall be administered the applicable~~  
22 ~~end-of-course assessment instrument as provided by Sections~~  
23 ~~39.023(c) and 39.025]~~.

24 SECTION 9. Effective August 31, 2017, Section 28.025(c-6),  
25 Education Code, is amended to read as follows:

26 (c-6) Notwithstanding Subsection (c), a person may receive  
27 a diploma if the person is eligible for a diploma under Section

1 ~~28.0258. [This subsection expires September 1, 2017.]~~

2 SECTION 10. Section 28.0255, Education Code, is amended by  
3 amending Subsections (g) and (h) and adding Subsection (g-1) to  
4 read as follows:

5 (g) A student entering the ninth grade during the 2018-2019  
6 school year is entitled to a high school diploma if the student:

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

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

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

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

17 (2) performs satisfactorily, as determined by the  
18 commissioner under Subsection (h), on assessment instruments  
19 listed under Section 39.023(c), as that section existed before  
20 amendment by H.B. \_\_\_\_, Acts of the 85th Legislature, Regular  
21 Session, 2017, for courses in which the student was enrolled.

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

26 SECTION 11. Section 28.0258, Education Code, is amended by  
27 amending Subsections (a), (b), (e), (f), (h), (j), and (k) and

1 adding Subsections (m) and (n) to read as follows:

2 (a) This section applies only to an 11th or 12th grade  
3 student who has failed to comply with the ~~[end-of-course]~~  
4 assessment instrument performance requirements under Section  
5 39.025 for not more than two subjects identified under Section  
6 39.023(c) ~~[courses]~~.

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

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

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

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

22 (4) as applicable:

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

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

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

(e) To be eligible to graduate and receive a high school diploma under this section, a student must successfully complete the curriculum requirements required for high school graduation:

(1) identified by the State Board of Education under Section 28.025(a); or

(2) as otherwise provided by the transition plan adopted by the commissioner to implement and administer the amendments made by Chapter 211 (H.B. 5), Acts of the 83rd Legislature, Regular Session, 2013, replacing the minimum, recommended, and advanced high school programs with the foundation high school program ~~[under Section 28.025(h)]~~.

(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



1 school pre-advanced placement, advanced placement, or  
2 international baccalaureate program course in English,  
3 mathematics, science, or social studies;

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

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

9 (12) the student's score on:

10 (A) the ACT or ~~7~~ the SAT, if not otherwise  
11 considered under Subdivision (3); or

12 (B) the Armed Services Vocational Aptitude  
13 Battery test;

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

17 (14) the student's overall preparedness for  
18 postsecondary success; and

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

21 (j) Notwithstanding any action taken by an individual  
22 graduation committee under this section, a school district shall  
23 administer an ~~[end-of-course]~~ assessment instrument required under  
24 Section 39.023(c) to any student who fails to perform  
25 satisfactorily on an ~~[end-of-course]~~ assessment instrument  
26 required under Section 39.023(c) as provided by Section 39.025(b).

27 For purposes of Section 39.053(c)(1), an assessment instrument

administered as provided by this subsection is considered an assessment instrument required for graduation retaken by a student.

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

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

(1) for purposes of Subsection (a), this section applies only to an 11th or 12th grade student who has failed to comply with the end-of-course assessment instrument performance requirements under Section 39.025, as that section existed before amendment by \_\_.B. \_\_, Acts of the 85th Legislature, Regular Session, 2017, for not more than two courses listed in Section 39.023(c), as that section existed before amendment by \_\_.B. \_\_, Acts of the 85th Legislature, Regular Session, 2017;

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

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

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

(n) Subsection (m) and this subsection expire September 1, 2023.

SECTION 12. Section 29.081, Education Code, is amended by amending Subsections (b) and (b-1) and adding Subsection (b-4) to read as follows:

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

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

(b-4) Each time the agency designates or adopts an assessment instrument or test under Section 39.023(c), each school district shall use the performance data from the assessment instrument or test to modify as necessary the accelerated instructional services provided to students who have not performed satisfactorily on the assessment instrument or test.

SECTION 13. 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

1 ~~[entering]~~ the program and must take any ~~[each]~~ appropriate  
2 ~~[end-of-course]~~ assessment instrument that is administered during  
3 the period in which the student is enrolled in the program. Except  
4 for a student ordered to participate under Subsection (d)(1), a  
5 student participating in the program may not take the high school  
6 equivalency examination unless the student has taken the assessment  
7 instruments required by this subsection.

8 SECTION 14. Section 29.402(b), Education Code, is amended  
9 to read as follows:

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

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

16 (2) has failed to perform satisfactorily on:

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

19 (B) an assessment instrument administered under  
20 Section 39.023(c) as that section existed before amendment by H.B.  
21 \_\_\_\_, Acts of the 85th Legislature, Regular Session, 2017; or

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

26 SECTION 15. Sections 39.023(a-2), (c-1), (c-3), (e), and  
27 (p), Education Code, as effective September 1, 2017, are amended to

1 read as follows:

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

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

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

14 (c-1) If the [The] agency develops an [shall develop any]  
15 assessment instrument required under this section, the agency shall  
16 develop the assessment instrument in a manner that allows for the  
17 measurement of annual improvement in student achievement as  
18 required by Sections 39.034(c) and (d). If the agency designates or  
19 adopts an assessment instrument under Subsection (c), the agency  
20 shall ensure that the performance data from the assessment  
21 instrument may be used for the measurement of annual improvement in  
22 student achievement as required by Sections 39.034(c) and (d).

23 (c-3) In adopting a schedule for the administration of  
24 assessment instruments under this section, the State Board of  
25 Education shall require[+]

26 [~~(1)~~] assessment instruments administered under  
27 Subsection (a) to be administered on a schedule so that the first

assessment instrument is administered at least two weeks later than the date on which the first assessment instrument was administered under Subsection (a) during the 2006-2007 school year[, and

~~[(2) the spring administration of end-of-course assessment instruments under Subsection (c) to occur in each school district not earlier than the first full week in May, except that the spring administration of the end-of-course assessment instruments in English I and English II must be permitted to occur at an earlier date].~~

(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. This subsection applies in the same manner to each administered assessment instrument adopted under Subsection (c) that is not a nationally recognized, norm-referenced assessment instrument or test ~~[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].~~

(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); and

~~(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 score ~~[scores]~~.

SECTION 16. Section 39.023, Education Code, is amended by amending Subsections (c), (c-2), (c-4), (c-5), (d), (f), (g), (h), and (i) and adding Subsections (h-1) and (p-1) to read as follows:

(c) The agency shall also provide for ~~[adopt end-of-course]~~ assessment instruments for each federally required secondary-level subject, including mathematics, English language arts, and science ~~[courses in Algebra I, biology, English I, English II, and United States history]~~. To the extent practicable, the commissioner shall designate an appropriate, nationally recognized, norm-referenced assessment instrument, offered by a nationally recognized vendor, to assess students in two or more subjects identified under this subsection. If an appropriate, nationally recognized, norm-referenced assessment instrument is not available to assess all subjects identified under this section, the commissioner shall,

1 for each subject not included, designate an appropriate, nationally  
2 recognized, norm-referenced specific subject test offered by a  
3 nationally recognized vendor. If an appropriate nationally  
4 recognized, norm-referenced multiple subject assessment instrument  
5 or an appropriate nationally recognized, norm-referenced specific  
6 subject test is not available to assess a specific subject, the  
7 commissioner shall adopt a specific subject assessment instrument  
8 for that subject. An ~~[The Algebra I end-of-course assessment~~  
9 ~~instrument must be administered with the aid of technology. The~~  
10 ~~English I and English II end-of-course]~~ assessment instrument or  
11 test designated or adopted under this subsection ~~[instruments]~~ must  
12 ~~[each]~~ assess essential knowledge and skills in the appropriate  
13 subject ~~[in both reading and writing in the same assessment~~  
14 ~~instrument and must provide a single score]~~. Before the agency  
15 designates or adopts an assessment instrument or test, the agency  
16 shall develop evidence, through a peer review process, to  
17 demonstrate that the assessment instrument or test is aligned with  
18 the essential knowledge and skills for the appropriate subject. A  
19 school district shall comply with State Board of Education rules  
20 regarding administration of an ~~[the]~~ assessment instrument  
21 required under ~~[instruments listed in]~~ this subsection. If a  
22 student is in a special education program under Subchapter A,  
23 Chapter 29, the student's admission, review, and dismissal  
24 committee shall determine whether any allowable modification is  
25 necessary in administering to the student an assessment instrument  
26 or test required under this subsection. ~~[The State Board of~~  
27 ~~Education shall administer the assessment instruments. The State~~



~~Board of Education shall adopt a schedule for the administration of end-of-course assessment instruments that complies with the requirements of Subsection (c-3).]~~

(c-2) The agency may adopt ~~[end-of-course]~~ assessment instruments for secondary-level subjects ~~[courses]~~ not identified ~~[listed]~~ in Subsection (c). A student's performance on an ~~[end-of-course]~~ assessment instrument adopted under this subsection is not subject to the performance requirements established under ~~[Subsection (c) or]~~ Section 39.025.

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

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

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

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

(d) The commissioner may participate in multistate efforts to develop voluntary standardized secondary-level ~~[end-of-course]~~ assessment instruments. ~~[The commissioner by rule may require a school district to administer an end-of-course assessment instrument developed through the multistate efforts.]~~ The

admission, review, and dismissal committee of a student in a

special education program under Subchapter A, Chapter 29, shall determine whether any allowable modification is necessary in administering to the student an ~~[end-of-course]~~ assessment instrument.

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

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

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

(2) provide written notice to the student and the

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

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

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

(i) Except as provided by this subsection, the ~~[The]~~ provisions of this section~~[, except Subsection (d),]~~ are subject to modification by rules adopted under Section 39.022. The provisions of Subsection (d) and the provisions requiring the agency to designate a nationally recognized, norm-referenced multiple subject assessment instrument or nationally recognized, norm-referenced specific subject test are not subject to modification by rules adopted under Section 39.022. Each assessment instrument adopted under ~~[those]~~ rules adopted under Section 39.022 and each assessment instrument required under

1 Subsections (c) and [Subsection] (d) must be reliable and valid and  
2 must meet any applicable federal requirements for measurement of  
3 student progress.

4 (p-1) On or before September 1 of each year, the  
5 commissioner shall make the following information available on the  
6 agency's Internet website for each assessment instrument required  
7 under Subsection (c) that is not a norm-referenced assessment  
8 instrument or test:

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

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

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

17 (4) the corresponding scale score.

18 SECTION 17. The heading to Section 39.0232, Education Code,  
19 is amended to read as follows:

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

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

24 (a) To the extent practicable, the agency shall ensure that  
25 any high school ~~[end-of-course]~~ assessment instrument designated  
26 or adopted under Section 39.023(c) ~~[developed by the agency is~~  
27 ~~developed in such a manner that the assessment instrument]~~ may be

used to determine the appropriate placement of a student in a course of the same subject matter at an institution of higher education.

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

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

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

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

SECTION 19. Section 39.0234, Education Code, is amended by amending Subsection (a) and adding Subsection (b) to read as follows:

(a) Except as provided by Subsection (b), the ~~[The]~~ agency shall ensure that assessment instruments required under Section 39.023 are capable of being administered by computer. The commissioner may not require a school district or open-enrollment charter school to administer an assessment instrument by computer.

(b) Subsection (a) does not apply to a nationally recognized, norm-referenced multiple subject assessment instrument or nationally recognized, norm-referenced specific subject test

1 designated by the agency under Section 39.023(c).

2 SECTION 20. Section 39.024(i), Education Code, is amended  
3 to read as follows:

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

8 (1) military service; or

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

13 SECTION 21. Section 39.0241(a), Education Code, is amended  
14 to read as follows:

15 (a) The commissioner shall determine the level of  
16 performance considered to be satisfactory on the assessment  
17 instruments. In determining the level of performance considered  
18 satisfactory on an assessment instrument required under Section  
19 39.023(c), the commissioner shall consult with the commissioner of  
20 higher education and the executive director of the Texas Workforce  
21 Commission.

22 SECTION 22. Section 39.025, Education Code, is amended by  
23 amending Subsections (a), (a-1), (a-4), (b), (b-1), and (f) and  
24 adding Subsection (f-1) to read as follows:

25 (a) The commissioner shall adopt rules requiring a student  
26 in the foundation high school program under Section 28.025 to be  
27 administered an [~~end-of-course~~] assessment instrument required

1 under ~~[listed in]~~ Section 39.023(c) during the student's 10th or  
 2 11th grade year ~~[only for a course in which the student is enrolled~~  
 3 ~~and for which an end-of-course assessment instrument is~~  
 4 ~~administered]~~. A student is required to achieve a scale score that  
 5 indicates satisfactory performance, as determined by the  
 6 commissioner under Section 39.0241(a), on each ~~[end-of-course]~~  
 7 assessment instrument administered to the student. ~~[For each scale~~  
 8 ~~score required under this subsection that is not based on a~~  
 9 ~~100-point scale scoring system, the commissioner shall provide for~~  
 10 ~~conversion, in accordance with commissioner rule, of the scale~~  
 11 ~~score to an equivalent score based on a 100-point scale scoring~~  
 12 ~~system.]~~ A student may not receive a high school diploma until the  
 13 student has performed satisfactorily on ~~[end-of-course]~~ assessment  
 14 instruments in the manner provided under this subsection. This  
 15 subsection does not require a student to demonstrate readiness to  
 16 enroll in an institution of higher education.

17 (a-1) A student enrolled in a college preparatory  
 18 mathematics or English language arts course under Section 28.014  
 19 who satisfies the Texas Success Initiative (TSI) college readiness  
 20 benchmarks prescribed by the Texas Higher Education Coordinating  
 21 Board under Section 51.3062(f) on an assessment instrument  
 22 designated by the Texas Higher Education Coordinating Board under  
 23 Section 51.3062(c) administered at the end of the college  
 24 preparatory mathematics or English language arts course satisfies  
 25 the assessment requirement ~~[requirements]~~ concerning mathematics  
 26 ~~[and is exempt from the administration of the Algebra I]~~ or ~~[the~~  
 27 ~~English I and]~~ English language arts ~~[II end-of-course assessment~~

1 ~~instruments~~], as applicable, ~~[as prescribed by Section 39.023(c),]~~  
2 even if the student did not perform satisfactorily on a previous  
3 administration of the applicable portion of a norm-referenced  
4 multiple subject assessment instrument or applicable  
5 norm-referenced specific subject test or ~~[end-of-course]~~  
6 assessment instrument required under Section 39.023(c). A student  
7 who fails to perform satisfactorily on the assessment instrument  
8 designated by the Texas Higher Education Coordinating Board under  
9 Section 51.3062(c) administered as provided by this subsection may  
10 retake that assessment instrument for purposes of this subsection  
11 or may take the appropriate ~~[end-of-course]~~ assessment instrument  
12 required under Section 39.023(c).

13 (a-4) The admission, review, and dismissal committee of a  
14 student in a special education program under Subchapter A, Chapter  
15 29, shall determine whether, to receive a high school diploma, the  
16 student is required to achieve satisfactory performance on  
17 ~~[end-of-course]~~ assessment instruments required under Section  
18 39.023(c).

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

25 (b-1) A school district shall provide each student who fails  
26 to perform satisfactorily as determined by the commissioner under  
27 Section 39.0241(a) on an ~~[end-of-course]~~ assessment instrument



1 required under Section 39.023(c) with accelerated instruction in  
2 the subject assessed by the assessment instrument.

3 (f) The commissioner shall by rule adopt a transition plan  
4 to implement the amendments made by \_\_B. \_\_, Acts of the 85th  
5 Legislature, Regular Session, 2017 [~~Chapter 1312 (S.B. No. 1031),~~  
6 ~~Acts of the 80th Legislature, Regular Session, 2007~~], replacing  
7 [~~general subject assessment instruments administered at the high~~  
8 ~~school level with~~] end-of-course assessment instruments with  
9 assessment instruments designated or adopted under Section  
10 39.023(c). The rules must provide for the [~~end-of-course~~]  
11 assessment instruments designated or adopted under Section  
12 39.023(c) to be administered beginning with students entering the  
13 ninth grade during the 2018-2019 [~~2011-2012~~] school year. During  
14 the period under which the transition to [~~end-of-course~~] assessment  
15 instruments designated or adopted under Section 39.023(c) is made:

16 (1) for students entering a grade above the ninth  
17 grade during the 2018-2019 [~~2011-2012~~] school year, the  
18 commissioner shall retain, administer, and use for purposes of  
19 accreditation and other campus and district accountability  
20 measures under this chapter the end-of-course assessment  
21 instruments required by Section 39.023(c) [~~39.023(a) or (c)~~], as  
22 that section existed before amendment by \_\_B. \_\_, Acts of the 85th  
23 Legislature, Regular Session, 2017 [~~Chapter 1312 (S.B. No. 1031),~~  
24 ~~Acts of the 80th Legislature, Regular Session, 2007~~]; and

25 (2) a student subject to Subdivision (1) may not  
26 receive a high school diploma unless:

27 (A) the student complies with this section [~~has~~

1 ~~performed satisfactorily on each required assessment instrument~~  
2 ~~administered under Section 39.023(c)] as it [that section] existed~~  
3 ~~before amendment by .B. , Acts of the 85th Legislature, Regular~~  
4 ~~Session, 2017; or~~

5 (B) an individual graduation committee  
6 established under Section 28.0258 determines that the student is  
7 eligible to receive a high school diploma [Chapter 1312 (S.B.  
8 ~~No. 1031), Acts of the 80th Legislature, Regular Session, 2007].~~

9 (f-1) For purposes of Subsection (f), a reference in this  
10 code to an assessment instrument under Section 39.023(c) includes  
11 an end-of-course assessment instrument administered under Section  
12 39.023(c), as that section existed before amendment by .B. ,  
13 Acts of the 85th Legislature, Regular Session, 2017.

14 SECTION 23. Effective August 31, 2017, Section 39.025(a-2),  
15 Education Code, as added by Chapter 5 (S.B. 149), Acts of the 84th  
16 Legislature, Regular Session, 2015, is amended to read as follows:

17 (a-2) Notwithstanding Subsection (a), a student who has  
18 failed to perform satisfactorily on ~~[end-of-course]~~ assessment  
19 instruments in the manner provided under this section may receive a  
20 high school diploma if the student has qualified for graduation  
21 under Section 28.0258. ~~[This subsection expires September 1,~~  
22 ~~2017.]~~

23 SECTION 24. Section 39.025(a-2), Education Code, as added  
24 by Chapter 1036 (H.B. 1613), Acts of the 84th Legislature, Regular  
25 Session, 2015, is amended to read as follows:

26 (a-2) Unless an assessment instrument is the assessment  
27 instrument designated by the agency as the assessment instrument

1 required under Section 39.023(c), the ~~[The]~~ commissioner shall  
2 determine a method by which a student's satisfactory performance on  
3 an advanced placement test, an international baccalaureate  
4 examination, an SAT Subject Test, the SAT, the ACT, or any  
5 nationally recognized norm-referenced assessment instrument used  
6 by institutions of higher education to award course credit based on  
7 satisfactory performance on the assessment instrument shall be used  
8 to satisfy the requirements concerning an ~~[end-of-course]~~  
9 assessment instrument required under Section 39.023(c) in an  
10 equivalent subject ~~[course]~~ as prescribed by Subsection (a).  
11 Unless an assessment instrument is the assessment instrument  
12 designated by the agency as the assessment instrument required  
13 under Section 39.023(c), the ~~[The]~~ commissioner shall determine a  
14 method by which a student's satisfactory performance on the PSAT or  
15 the ACT-Plan shall be used to satisfy the requirements concerning  
16 an ~~[end-of-course]~~ assessment instrument required under Section  
17 39.023(c) in an equivalent subject ~~[course]~~ as prescribed by  
18 Subsection (a). A student who fails to perform satisfactorily on a  
19 test or other assessment instrument authorized under this  
20 subsection, other than the PSAT or the ACT-Plan, may retake that  
21 test or other assessment instrument for purposes of this subsection  
22 or may take the appropriate ~~[end-of-course]~~ assessment instrument  
23 required under Section 39.023(c). A student who fails to perform  
24 satisfactorily on the PSAT or the ACT-Plan must take the  
25 appropriate ~~[end-of-course]~~ assessment instrument required under  
26 Section 39.023(c). The commissioner shall adopt rules as necessary  
27 for the administration of this subsection.

SECTION 25. Effective August 31, 2017, Section 39.025(a-3), Education Code, is amended to read as follows:

(a-3) A student who, after retaking an end-of-course assessment instrument for Algebra I or English II, has failed to perform satisfactorily as required by Subsection (a), but who receives a score of proficient on the Texas Success Initiative (TSI) diagnostic assessment for the corresponding subject for which the student failed to perform satisfactorily on the end-of-course assessment instrument satisfies the requirement concerning the Algebra I or English II end-of-course assessment, as applicable. ~~[This subsection expires September 1, 2017.]~~

SECTION 26. Effective September 1, 2018, Section 39.025(a-3), Education Code, is amended to read as follows:

(a-3) A student who, after retaking an ~~[end-of-course]~~ assessment instrument for mathematics ~~[Algebra I]~~ or English language arts ~~[II]~~, has failed to perform satisfactorily as required by Subsection (a), but who receives a score of proficient on the Texas Success Initiative (TSI) diagnostic assessment for the corresponding subject for which the student failed to perform satisfactorily on the ~~[end-of-course]~~ assessment instrument satisfies the assessment requirement concerning mathematics ~~[the Algebra I]~~ or English language arts ~~[II end-of-course assessment]~~, as applicable. ~~[This subsection expires September 1, 2017.]~~

SECTION 27. Sections 39.0261(a) and (b), Education Code, are amended to read as follows:

(a) In addition to the assessment instruments otherwise authorized or required by this subchapter, ~~[+]~~

1           ~~[(1)]~~ each school year and at state cost, a school  
2 district shall administer to students in the spring of the eighth  
3 grade an established, valid, reliable, and nationally  
4 norm-referenced preliminary college preparation assessment  
5 instrument for the purpose of diagnosing the academic strengths and  
6 deficiencies of students before entrance into high school[+]

7           ~~[(2) each school year and at state cost, a school~~  
8 ~~district shall administer to students in the 10th grade an~~  
9 ~~established, valid, reliable, and nationally norm-referenced~~  
10 ~~preliminary college preparation assessment instrument for the~~  
11 ~~purpose of measuring a student's progress toward readiness for~~  
12 ~~college and the workplace; and~~

13           ~~[(3) high school students in the spring of the 11th~~  
14 ~~grade or during the 12th grade may select and take once, at state~~  
15 ~~cost, one of the valid, reliable, and nationally norm-referenced~~  
16 ~~assessment instruments used by colleges and universities as part of~~  
17 ~~their undergraduate admissions processes].~~

18           (b) The agency shall:

19           (1) select and approve vendors of the specific  
20 assessment instrument ~~[instruments]~~ administered under this  
21 section; and

22           (2) provide reimbursement to a school district for all  
23 fees associated with the administration of the assessment  
24 instrument from funds appropriated for that purpose.

25           SECTION 28. Section 39.034(d), Education Code, is amended  
26 to read as follows:

27           (d) The agency shall determine the necessary annual

1 improvement required each year for a student to be prepared to  
2 perform satisfactorily on, as applicable:

- 3 (1) the grade five assessment instruments;
- 4 (2) the grade eight assessment instruments; and
- 5 (3) the ~~[end-of-course]~~ assessment instruments  
6 required under this subchapter for graduation.

7 SECTION 29. Section 39.035, Education Code, is amended by  
8 amending Subsection (a) and adding Subsection (b-1) to read as  
9 follows:

10 (a) Subject to Subsection (b) and except as provided by  
11 Subsection (b-1), the agency may conduct field testing of questions  
12 for any assessment instrument administered under Section  
13 39.023(a), (b), (c), (d), or (l) that is separate from the  
14 administration of the assessment instrument not more frequently  
15 than every other school year.

16 (b-1) Subsection (a) does not apply to a nationally  
17 recognized, norm-referenced multiple subject assessment instrument  
18 or nationally recognized, norm-referenced specific subject test  
19 designated by the agency under Section 39.023(c).

20 SECTION 30. The heading to Section 39.0381, Education Code,  
21 is amended to read as follows:

22 Sec. 39.0381. AUDITING AND MONITORING PERFORMANCE UNDER  
23 CONTRACTS FOR ASSESSMENT INSTRUMENTS; CONTRACT REVIEW.

24 SECTION 31. Section 39.0381, Education Code, is amended by  
25 adding Subsection (b-1) to read as follows:

26 (b-1) Not later than 180 days before the date of the  
27 expiration of a contract related to an assessment instrument

1 required under Section 39.023(c), the agency shall conduct a  
2 comprehensive review of the contract to evaluate entering into a  
3 renewal of the contract. In conducting a review under this  
4 subsection, the agency shall:

5 (1) determine whether the vendor's performance  
6 compliance under the contract has met or exceeded the agency's  
7 performance standards;

8 (2) determine whether the terms of the contract are  
9 sufficient to meet the continuing needs of the agency; and

10 (3) identify any appropriate modifications to the  
11 terms of the contract.

12 SECTION 32. Section 51.3062(q), Education Code, is amended  
13 to read as follows:

14 (q) A student who has achieved scores set by the board on the  
15 questions developed for end-of-course assessment instruments under  
16 Section 39.0233(a), as that section existed before repeal by \_\_.B.  
17 \_\_, Acts of the 85th Legislature, Regular Session, 2017, is exempt  
18 from the requirements of this section. The exemption is effective  
19 for the three-year period following the date a student takes the  
20 last assessment instrument for purposes of this section and  
21 achieves the standard set by the board. This subsection does not  
22 apply during any period for which the board designates the  
23 questions developed for end-of-course assessment instruments under  
24 Section 39.0233(a), as that section existed before repeal by \_\_.B.  
25 \_\_, Acts of the 85th Legislature, Regular Session, 2017, as the  
26 primary assessment instrument under this section, except that the  
27 three-year period described by this subsection remains in effect

for students who qualify for an exemption under this subsection before that period.

SECTION 33. (a) Effective August 31, 2017, the following sections of the Education Code are repealed:

(1) Section 28.0258(1); and

(2) Section 28.0259(e).

(b) Effective September 1, 2018, the following sections of the Education Code are repealed:

(1) Section 39.023(c-6);

(2) Section 39.0233;

(3) Section 39.025(e-1);

(4) Section 39.0261(e);

(5) Section 39.053(d-1); and

(6) Section 39.203(d).

SECTION 34. (a) Except as provided by Subsection (b) of this section, this Act applies beginning with the 2018-2019 school year.

(b) Subsection (a) of this section does not apply to a provision of this Act that is effective August 31, 2017.

SECTION 35. Except as otherwise provided by this Act, 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, 2017.