

By: Bernal

H.B. No. 5353

A BILL TO BE ENTITLED

AN ACT

relating to the administration of certain assessment instruments and the accountability rating system for assessing campus and district performance.

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

SECTION 1. Section 39.023, Education Code, is amended by amending Subsections (a), (c), and (c-2) and adding Subsections (q) and (r) to read as follows:

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

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

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

(3) ~~social studies, in grade eight;~~

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

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

(c) The agency shall also adopt Texas Success Initiative  
assessments or nationally norm-referenced ~~[end-of-course]~~

1 assessment instruments, such as the SAT or ACT, for secondary-  
2 level courses in reading, mathematics, and science only as  
3 necessary to comply with the Every Student Succeeds Act (20 U.S.C.  
4 Section 6301 et seq.) to be administered only as necessary to meet  
5 the minimum requirements of that Act [~~Algebra I, biology, English~~  
6 ~~I, English II, and United States history. The Algebra I end-of-~~  
7 ~~course assessment instrument must be administered with the aid of~~  
8 ~~technology, but may include one or more parts that prohibit the~~  
9 ~~use of technology. The English I and English II end-of-course~~  
10 ~~assessment instruments must each assess essential knowledge and~~  
11 ~~skills in both reading and writing and must provide a single~~  
12 ~~score~~]. A school district shall comply with State Board of  
13 Education rules regarding administration of the assessment  
14 instruments adopted under [~~listed in~~] this subsection. If a  
15 student is in a special education program under Subchapter A,  
16 Chapter 29, the student's admission, review, and dismissal  
17 committee shall determine whether any allowable modification is  
18 necessary in administering to the student an assessment instrument  
19 required under this subsection. The State Board of Education  
20 shall administer the assessment instruments. An [~~end-of-course~~]  
21 assessment instrument may be administered in multiple parts over  
22 more than one day. The State Board of Education shall adopt a  
23 schedule for the administration of [~~end-of-course~~] assessment  
24 instruments that complies with the requirements of Subsection (c-  
25 3).

26 (c-2) The agency may adopt [~~end-of-course~~] assessment  
27 instruments for courses for which assessment instruments are not

1 adopted under ~~[not listed in]~~ Subsection (c). A student's  
2 performance on an ~~[end-of-course]~~ assessment instrument adopted  
3 under this subsection is not subject to the performance  
4 requirements established under Subsection (c) or Section 39.025.

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

14 (r) If the commissioner determines that a waiver or  
15 authorization from the United States Department of Education is  
16 necessary for Texas Success Initiative assessments to be  
17 designated as the state's high school test under the Every Student  
18 Succeeds Act in this subsection, the commissioner shall conduct  
19 any technical studies necessary to ensure compliance with federal  
20 guidelines and request the waiver or authorization until the waiver  
21 or authorization is granted.

22 SECTION 2. Section 39.025(a) and (a-1), Education Code, are  
23 amended to read as follows:

24 (a) The commissioner shall adopt rules requiring a student in  
25 the foundation high school program under Section 28.025 to be  
26 administered an ~~[end-of-course]~~ assessment instrument listed in  
27 Section 39.023(c) only for a course in which the student is

1 enrolled and for which an ~~[end-of-course]~~ assessment instrument is  
2 administered. A student is required to achieve a scale score that  
3 indicates satisfactory performance, as determined by the  
4 commissioner under Section 39.0241(a), on each ~~[end-of-course]~~  
5 assessment instrument administered to the student. For each scale  
6 score required under this subsection that is not based on a 100-  
7 point scale scoring system, the commissioner shall provide for  
8 conversion, in accordance with commissioner rule, of the scale  
9 score to an equivalent score based on a 100-point scale scoring  
10 system. A student may not receive a high school diploma until the  
11 student ~~has performed satisfactorily on end-of-course assessment~~  
12 ~~instruments in the manner provided under this subsection~~  
13 demonstrates College, Career, or Military Readiness as defined  
14 under Section 39.053(c)(1)(B). This subsection does not require a  
15 student to demonstrate readiness to enroll in an institution of  
16 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 college readiness  
20 benchmarks prescribed by the Texas Higher Education Coordinating  
21 Board under Section 51.334 on an assessment instrument designated  
22 by the coordinating board under that section administered at the  
23 end of the college preparatory mathematics or English language  
24 arts course satisfies the requirements concerning and is exempt  
25 from the administration of the mathematics or reading ~~[Algebra I~~  
26 ~~or the English I and English II]~~ ~~[end-of-course]~~ assessment  
27 instrument ~~[instruments]~~, as applicable, ~~[as prescribed by Section~~

1 ~~39.023(e),~~] even if the student did not perform satisfactorily on  
2 a previous administration of the applicable ~~[end-of-course]~~  
3 assessment instrument. A student who fails to perform  
4 satisfactorily on the assessment instrument designated by the  
5 coordinating board under Section 51.334 administered as provided  
6 by this subsection may retake that assessment instrument for  
7 purposes of this subsection or may take the ~~[end-of-course]~~  
8 assessment instrument.

9 SECTION 3. Subchapter C, Chapter 39, Education Code, is  
10 amended by adding Section 39.0521 to read as follows:

11 Sec. 39.0521. TEMPORARY PROVISION: ASSIGNMENT OF PERFORMANCE  
12 RATINGS AND SCORING OF ASSESSMENT INSTRUMENTS. (a) Notwithstanding  
13 any other law, for the 2022-2023, 2023-2024, AND 2024-2025 school  
14 years, the commissioner shall use the cut points, scaling, targets,  
15 indicators, standards, procedures, criteria, and calculations  
16 prescribed by the 2022 Accountability Manual, adopted under 19  
17 T.A.C. Section 97.1001, as that rule existed on August 15, 2023,  
18 to:

19 (1) evaluate school district and campus performance and  
20 assign each district and campus a performance rating; and

21 (2) score assessment instruments administered under  
22 Subchapter B.

23 (b) If the commissioner determines that a waiver or  
24 authorization from the United States Department of Education is  
25 necessary for the implementation of this subsection, the  
26 commissioner shall request the waiver or authorization until the  
27 waiver or authorization is granted.

1        (c) This section expires August 31, 2026.

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

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

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

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

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

15        (i) an indicator that accounts for the  
16       results of assessment instruments required under Sections  
17       39.023(a), (c), and (l), as applicable for the district and campus,  
18       ~~[including the results of assessment instruments required for~~  
19       ~~graduation retaken by a student,]~~ aggregated across grade levels  
20       by subject area, including:

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

26        (b) for the college readiness  
27       performance standard as determined under Section 39.0241, the

percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; ~~and~~

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

(iii) an indicator that accounts for extracurricular and cocurricular student success;

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

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

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

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

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

1 assessments;

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

4 (iv) students who demonstrate military  
5 readiness by:

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

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

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

13 (v) students who earn industry  
14 certifications;

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

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

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



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

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

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

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

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

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

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

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

23 (3) in the closing the gaps domain, the use of  
24 disaggregated data to demonstrate the differentials among students  
25 from different racial and ethnic groups and [7] socioeconomic  
26 backgrounds [~~7 and other factors, including:~~

27 [~~(A) students formerly receiving special~~

1 ~~education services;~~

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

3 ~~[(C) students who are mobile].~~

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

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

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

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

19 SECTION 5. Section 39.054(b), Education Code, is amended to  
20 read as follows:

21 (b) For purposes of assigning school districts and campuses  
22 an overall and a domain performance rating under Subsection (a),  
23 the commissioner shall ensure ~~that~~ the following:

24 (1) whenever the agency adds or removes assessments or  
25 makes significant revisions to the state's assessment program, the  
26 agency must review, adjust, and recalculate the accountability cut  
27 scores and standards to ensure fairness and consistency in campus

1 and district ratings;

2 (2) each of the three domain ratings for elementary,  
3 middle, and high schools have a weak or no statistical correlation  
4 to the percentage of educationally disadvantaged students enrolled  
5 in order to identify effective schools regardless of family income;

6 (3) any high school college, career, or military  
7 readiness indicator or methodology changes, made either  
8 statutorily or through the commissioner's rulemaking authority,  
9 that rely on previous year data shall begin with the next incoming  
10 ninth grade class to ensure that these changes are not applied  
11 retroactively; and

12 (4) that the method used to evaluate performance is  
13 implemented in a manner that provides the mathematical possibility  
14 that all districts and campuses receive an A rating.

15 SECTION 6. Section 39.0541, Education Code, is amended to  
16 read as follows:

17 (a) As soon as practicable, the [The] commissioner may shall  
18 adopt indicators and standards under this subchapter at any time  
19 during a school year before the evaluation of a school district or  
20 campus prior to the school year in which the indicators or  
21 standards are to be effective.

22 (b) The commissioner may not make changes to the indicators  
23 or standards adopted under this subchapter during the school year  
24 in which the adopted indicators or standards are effective.

25 SECTION 7. Section 39.0542(a), Education Code, is amended to  
26 read as follows:

27 (a) Each school year, Not later than July 15 and prior to

1 the start of the new school year, the commissioner shall provide  
2 each school district a document in a simple, accessible format  
3 that explains the accountability performance measures, methods,  
4 and procedures that will be applied for that school year in  
5 assigning each school district and campus a performance rating  
6 under Section 39.054.

7 SECTION 8. Section 39.203(c), Education Code, is amended to  
8 read as follows:

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

15 SECTION 9. Section 39.023(c-9), Education Code, is repealed.

16 SECTION 10. This Act applies beginning with the 2025-2026  
17 school year.

18 SECTION 11. This Act takes effect immediately if it receives  
19 a vote of two-thirds of all the members elected to each house, as  
20 provided by Section 39, Article III, Texas Constitution. If this  
21 Act does not receive the vote necessary for immediate effect, this  
22 Act takes effect September 1, 2025.