

1-1 By: Huberty (Senate Sponsor - Taylor) H.B. No. 3906
 1-2 (In the Senate - Received from the House May 9, 2019;
 1-3 May 10, 2019, read first time and referred to Committee on
 1-4 Education; May 19, 2019, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 11, Nays 0;
 1-6 May 19, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Taylor	X			
1-9 Lucio	X			
1-10 Bettencourt	X			
1-11 Campbell	X			
1-12 Fallon	X			
1-13 Hall	X			
1-14 Hughes	X			
1-15 Paxton	X			
1-16 Powell	X			
1-17 Watson	X			
1-18 West	X			

1-20 COMMITTEE SUBSTITUTE FOR H.B. No. 3906 By: Taylor

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to the assessment of public school student development,
 1-24 comprehension, and performance, including the administration of
 1-25 assessment instruments for that purpose.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Effective September 1, 2021, Section 21.4551(c),
 1-28 Education Code, is amended to read as follows:

1-29 (c) The commissioner by rule shall require a teacher to
 1-30 attend a reading academy if the teacher provides instruction in
 1-31 reading, mathematics, science, or social studies to students at the
 1-32 sixth, seventh, or eighth grade level at a campus that fails to
 1-33 satisfy any standard under Section 39.054(e) on the basis of
 1-34 student performance on the language arts ~~reading~~ assessment
 1-35 instrument administered under Section 39.023(a) to students in any
 1-36 grade level at the campus.

1-37 SECTION 2. Section 28.006, Education Code, is amended by
 1-38 amending Subsections (b), (c), (d), and (f) and adding Subsections
 1-39 (b-1), (b-2), (c-2), (c-3), and (l) to read as follows:

1-40 (b) The commissioner shall adopt a list of reading
 1-41 instruments that a school district may use to diagnose student
 1-42 reading development and comprehension. For use in diagnosing the
 1-43 reading development and comprehension of kindergarten students,
 1-44 the commissioner shall adopt a ~~include on the commissioner's list~~
 1-45 ~~at least two~~ multidimensional assessment tool that includes
 1-46 ~~tools. A multidimensional assessment tool on the commissioner's~~
 1-47 ~~list must either include~~ a reading instrument and tests ~~test~~
 1-48 ~~at least three developmental skills, including literacy~~ ~~, or test at~~
 1-49 ~~least two developmental skills, other than literacy, and be~~
 1-50 ~~administered in conjunction with a separate reading instrument that~~
 1-51 ~~is on a list adopted under this subsection].~~ A multidimensional
 1-52 assessment tool administered as provided by this subsection is
 1-53 considered to be a reading instrument for purposes of this section.
 1-54 A district-level committee established under Subchapter F, Chapter
 1-55 11, may adopt a list of reading instruments for use in the district
 1-56 in a grade level other than kindergarten in addition to the reading
 1-57 instruments on the commissioner's list. Each reading instrument
 1-58 adopted by the commissioner or a district-level committee must be
 1-59 based on scientific research concerning reading skills development
 1-60 and reading comprehension. A list of reading instruments adopted

2-1 under this subsection must provide for diagnosing the reading
2-2 development and comprehension of students participating in a
2-3 program under Subchapter B, Chapter 29.

2-4 (b-1) The commissioner may approve an alternative reading
2-5 instrument for use in diagnosing the reading development and
2-6 comprehension of kindergarten students that complies with the
2-7 requirements under Subsection (b).

2-8 (b-2) The agency may develop reading instruments for
2-9 purposes of this section.

2-10 (c) Each school district shall administer, at the
2-11 [~~kindergarten and~~] first and second grade levels, a reading
2-12 instrument on the list adopted by the commissioner or by the
2-13 district-level committee. The district shall administer the
2-14 reading instrument in accordance with the commissioner's
2-15 recommendations under Subsection (a)(1).

2-16 (c-2) Each school district shall administer at the
2-17 kindergarten level a reading instrument adopted by the commissioner
2-18 under Subsection (b) or approved by the commissioner under
2-19 Subsection (b-1). The district shall administer the reading
2-20 instrument in accordance with the commissioner's recommendations
2-21 under Subsection (a)(1).

2-22 (c-3) The commissioner by rule shall determine the
2-23 performance on the reading instrument adopted under Subsection (b)
2-24 that indicates kindergarten readiness.

2-25 (d) The superintendent of each school district shall:

2-26 (1) report to the commissioner and the board of
2-27 trustees of the district the results of the reading instruments;

2-28 (2) not later than the 60th day after the date on which
2-29 a reading instrument was administered report, in writing, to a
2-30 student's parent or guardian the student's results on the [reading]
2-31 instrument; and

2-32 (3) using the school readiness certification system
2-33 provided to the school district in accordance with Section
2-34 29.161(e), report electronically each student's raw score on the
2-35 reading instrument to the agency for use in the school readiness
2-36 certification system.

2-37 (f) The agency shall ensure at least one reading instrument
2-38 for each grade level for which a reading instrument is required to
2-39 be administered under this section is available to school districts
2-40 at no cost. [~~This section may be implemented only if funds are~~
2-41 appropriated for administering the reading instruments. Funds,
2-42 other than local funds, may be used to pay the cost of administering
2-43 a reading instrument only if the instrument is on the list adopted
2-44 by the commissioner.]

2-45 (l) The commissioner may adopt rules as necessary to
2-46 implement this section. Section 2001.0045, Government Code, does
2-47 not apply to rules adopted under this subsection.

2-48 SECTION 3. Effective September 1, 2021, Section
2-49 28.006(c-1), Education Code, is amended to read as follows:

2-50 (c-1) Each school district shall administer at the
2-51 beginning of the seventh grade a reading instrument adopted by the
2-52 commissioner to each student whose performance on the assessment
2-53 instrument in language arts [reading] administered under Section
2-54 39.023(a) to the student in grade six did not demonstrate reading
2-55 proficiency, as determined by the commissioner. The district shall
2-56 administer the reading instrument in accordance with the
2-57 commissioner's recommendations under Subsection (a)(1).

2-58 SECTION 4. Effective September 1, 2021, Sections 28.0211(a)
2-59 and (c), Education Code, are amended to read as follows:

2-60 (a) Except as provided by Subsection (b) or (e), a student
2-61 may not be promoted to:

2-62 (1) the sixth grade program to which the student would
2-63 otherwise be assigned if the student does not perform
2-64 satisfactorily on the fifth grade mathematics and language arts
2-65 [reading] assessment instruments under Section 39.023; or

2-66 (2) the ninth grade program to which the student would
2-67 otherwise be assigned if the student does not perform
2-68 satisfactorily on the eighth grade mathematics and language arts
2-69 [reading] assessment instruments under Section 39.023.

3-1 (c) Each time a student fails to perform satisfactorily on
 3-2 an assessment instrument specified under Subsection (a), the school
 3-3 district in which the student attends school shall provide to the
 3-4 student accelerated instruction in the applicable subject area,
 3-5 including reading instruction for a student who fails to perform
 3-6 satisfactorily on a language arts [~~reading~~] assessment instrument.
 3-7 After a student fails to perform satisfactorily on an assessment
 3-8 instrument a second time, a grade placement committee shall be
 3-9 established to prescribe the accelerated instruction the district
 3-10 shall provide to the student before the student is administered the
 3-11 assessment instrument the third time. The grade placement
 3-12 committee shall be composed of the principal or the principal's
 3-13 designee, the student's parent or guardian, and the teacher of the
 3-14 subject of an assessment instrument on which the student failed to
 3-15 perform satisfactorily. The district shall notify the parent or
 3-16 guardian of the time and place for convening the grade placement
 3-17 committee and the purpose of the committee. An accelerated
 3-18 instruction group administered by a school district under this
 3-19 section may not have a ratio of more than 10 students for each
 3-20 teacher.

3-21 SECTION 5. Effective September 1, 2021, Section 29.056(g),
 3-22 Education Code, is amended to read as follows:

3-23 (g) A district may transfer a student of limited English
 3-24 proficiency out of a bilingual education or special language
 3-25 program for the first time or a subsequent time if the student is
 3-26 able to participate equally in a regular all-English instructional
 3-27 program as determined by:

3-28 (1) agency-approved tests administered at the end of
 3-29 each school year to determine the extent to which the student has
 3-30 developed oral and written language proficiency and specific
 3-31 language skills in English;

3-32 (2) satisfactory performance on the language arts
 3-33 [~~reading~~] assessment instrument under Section 39.023(a) or an
 3-34 English language arts assessment instrument under Section
 3-35 39.023(c), as applicable, with the assessment instrument
 3-36 administered in English, or, if the student is enrolled in the first
 3-37 or second grade, an achievement score at or above the 40th
 3-38 percentile in the reading and language arts sections of an English
 3-39 standardized test approved by the agency; and

3-40 (3) agency-approved criterion-referenced tests and
 3-41 the results of a subjective teacher evaluation.

3-42 SECTION 6. Section 29.1543, Education Code, is amended to
 3-43 read as follows:

3-44 Sec. 29.1543. EARLY EDUCATION REPORTS. The agency shall
 3-45 produce and make available to the public on the agency's Internet
 3-46 website annual district and campus-level reports containing
 3-47 information from the previous school year on early education in
 3-48 school districts and open-enrollment charter schools. A report
 3-49 under this section must contain:

3-50 (1) the information required by Section 29.1532(c) to
 3-51 be reported through the Public Education Information Management
 3-52 System (PEIMS);

3-53 (2) a description of the diagnostic reading
 3-54 instruments administered in accordance with Section 28.006(c) or
 3-55 (c-2);

3-56 (3) the number of students who were administered a
 3-57 diagnostic reading instrument administered in accordance with
 3-58 Section 28.006(c) or (c-2);

3-59 (4) the number of students whose scores from a
 3-60 diagnostic reading instrument administered in accordance with
 3-61 Section 28.006(c) or (c-2) indicate reading proficiency; [~~and~~]

3-62 (5) the number of kindergarten students who were
 3-63 enrolled in a prekindergarten program in the previous school year
 3-64 in the same district or school as the district or school in which
 3-65 the student attends kindergarten;

3-66 (6) the number and percentage of students who perform
 3-67 satisfactorily on the third grade reading or mathematics assessment
 3-68 instrument administered under Section 39.023, disaggregated by
 3-69 whether the student was eligible for free prekindergarten under

4-1 Section 29.153;
 4-2 (7) the number of students described by Subdivision
 4-3 (6) who attended kindergarten in the district, disaggregated by:
 4-4 (A) whether the student met the kindergarten
 4-5 readiness standard on the reading instrument adopted under Section
 4-6 28.006;
 4-7 (B) whether the student attended prekindergarten
 4-8 in the district; and
 4-9 (C) the type of prekindergarten the student
 4-10 attended, if applicable; and
 4-11 (8) the information described by Subdivisions (6) and
 4-12 (7) disaggregated by whether the student is educationally
 4-13 disadvantaged.

4-14 SECTION 7. Effective September 1, 2021, Section 29.1543,
 4-15 Education Code, is amended to read as follows:

4-16 Sec. 29.1543. EARLY EDUCATION REPORTS. The agency shall
 4-17 produce and make available to the public on the agency's Internet
 4-18 website annual district and campus-level reports containing
 4-19 information from the previous school year on early education in
 4-20 school districts and open-enrollment charter schools. A report
 4-21 under this section must contain:

4-22 (1) the information required by Section 29.1532(c) to
 4-23 be reported through the Public Education Information Management
 4-24 System (PEIMS);

4-25 (2) a description of the diagnostic reading
 4-26 instruments administered in accordance with Section 28.006(c) or
 4-27 (c-2);

4-28 (3) the number of students who were administered a
 4-29 diagnostic reading instrument administered in accordance with
 4-30 Section 28.006(c) or (c-2);

4-31 (4) the number of students whose scores from a
 4-32 diagnostic reading instrument administered in accordance with
 4-33 Section 28.006(c) or (c-2) indicate reading proficiency; ~~and~~

4-34 (5) the number of kindergarten students who were
 4-35 enrolled in a prekindergarten program in the previous school year
 4-36 in the same district or school as the district or school in which
 4-37 the student attends kindergarten;

4-38 (6) the number and percentage of students who perform
 4-39 satisfactorily on the third grade language arts or mathematics
 4-40 assessment instrument administered under Section 39.023,
 4-41 disaggregated by whether the student was eligible for free
 4-42 prekindergarten under Section 29.153;

4-43 (7) the number of students described by Subdivision
 4-44 (6) who attended kindergarten in the district, disaggregated by:

4-45 (A) whether the student met the kindergarten
 4-46 readiness standard on the reading instrument adopted under Section
 4-47 28.006;

4-48 (B) whether the student attended prekindergarten
 4-49 in the district; and

4-50 (C) the type of prekindergarten the student
 4-51 attended, if applicable; and

4-52 (8) the information described by Subdivisions (6) and
 4-53 (7) disaggregated by whether the student is educationally
 4-54 disadvantaged.

4-55 SECTION 8. Section 39.022, Education Code, is amended to
 4-56 read as follows:

4-57 Sec. 39.022. ASSESSMENT PROGRAM. The commissioner, after
 4-58 providing for a public hearing in coordination with the State Board
 4-59 of Education, by rule shall create and implement a statewide
 4-60 assessment program that is based on the essential knowledge and
 4-61 skills adopted by the State Board of Education under Subchapter A,
 4-62 Chapter 28, ~~[knowledge- and skills-based]~~ to ensure school
 4-63 accountability for student achievement that achieves the goals
 4-64 provided under Section 4.002. After adopting rules under this
 4-65 section, the commissioner ~~[State Board of Education]~~ shall consider
 4-66 the importance of maintaining stability in the statewide assessment
 4-67 program when adopting any subsequent modification of the rules.

4-68 SECTION 9. Effective September 1, 2021, Section 39.023,
 4-69 Education Code, is amended by amending Subsection (a) and adding

5-1 Subsection (a-4) to read as follows:

5-2 (a) The agency shall adopt or develop appropriate
5-3 criterion-referenced assessment instruments designed to assess
5-4 essential knowledge and skills in language arts [reading, writing],
5-5 mathematics, social studies, and science. Except as provided by
5-6 Subsection (a-2), all students, other than students assessed under
5-7 Subsection (b) or (1) or exempted under Section 39.027, shall be
5-8 assessed in:

5-9 (1) mathematics, annually in grades three through
5-10 [seven without the aid of technology and in grade] eight [with the
5-11 aid of technology on any assessment instrument that includes
5-12 algebra];

5-13 (2) language arts, including reading and writing,
5-14 annually in grades three through eight;

5-15 (3) [writing, including spelling and grammar, in
5-16 grades four and seven;

5-17 [(4)] social studies, in grade eight;

5-18 (4) [(5)] science, in grades five and eight; and

5-19 (5) [(6)] any other subject and grade required by
5-20 federal law.

5-21 (a-4) For purposes of Subsection (a)(1), the commissioner
5-22 by rule may designate sections of a mathematics assessment
5-23 instrument for a grade level that:

5-24 (1) may be completed with the aid of technology; and

5-25 (2) must be completed without the aid of technology.

5-26 SECTION 10. Section 39.023, Education Code, is amended by
5-27 amending Subsections (a-12), (a-13), (b-1), (c), and (c-3) and
5-28 adding Subsections (a-14), (a-15), (c-7), (c-8), and (o) to read as
5-29 follows:

5-30 (a-12) Each [An] assessment instrument adopted or developed
5-31 under Subsection (a) must be designed so that:

5-32 (1) if administered to students in grades three
5-33 through five, 85 percent of students will be able to complete all
5-34 [the] assessment instruments for that grade [instrument] within an
5-35 aggregate period equal to the number of assessment instruments for
5-36 that grade multiplied by 120 minutes; and

5-37 (2) if administered to students in grades six through
5-38 eight, 85 percent of students will be able to complete all [the]
5-39 assessment instruments for that grade [instrument] within an
5-40 aggregate period equal to the number of assessment instruments for
5-41 that grade multiplied by 180 minutes.

5-42 (a-13) The amount of time allowed for administration of an
5-43 assessment instrument adopted or developed under Subsection (a) may
5-44 not exceed eight hours, and the administration may occur in
5-45 multiple parts over more than [on only] one day.

5-46 (a-14) Subsections (a-12) and (a-13) do not apply to the
5-47 administration of assessment instruments for a grade level if the
5-48 time restriction imposed would result in a determination by the
5-49 commissioner that an assessment instrument is no longer valid and
5-50 reliable.

5-51 (a-15) Subsections (a-12) and (a-13) do not apply to a
5-52 classroom portfolio method used to assess writing performance.

5-53 (b-1) The agency, in conjunction with appropriate
5-54 interested persons, shall redevelop assessment instruments adopted
5-55 or developed under Subsection (b) for administration to
5-56 significantly cognitively disabled students in a manner consistent
5-57 with federal law. An assessment instrument under this subsection
5-58 may not require a teacher to prepare tasks or materials for a
5-59 student who will be administered such an assessment instrument. A
5-60 classroom portfolio method used to assess writing performance may
5-61 require a teacher to prepare tasks and materials [Assessment
5-62 instruments adopted or developed under this subsection shall be
5-63 administered not later than the 2014-2015 school year].

5-64 (c) The agency shall also adopt end-of-course assessment
5-65 instruments for secondary-level courses in Algebra I, biology,
5-66 English I, English II, and United States history. The Algebra I
5-67 end-of-course assessment instrument must be administered with the
5-68 aid of technology, but may include one or more parts that prohibit
5-69 the use of technology. The English I and English II end-of-course

6-1 assessment instruments must each assess essential knowledge and
6-2 skills in both reading and writing [~~in the same assessment~~
6-3 ~~instrument~~] and must provide a single score. A school district
6-4 shall comply with commissioner [~~State Board of Education~~] rules
6-5 regarding administration of the assessment instruments listed in
6-6 this subsection. If a student is in a special education program
6-7 under Subchapter A, Chapter 29, the student's admission, review,
6-8 and dismissal committee shall determine whether any allowable
6-9 modification is necessary in administering to the student an
6-10 assessment instrument required under this subsection. The
6-11 commissioner [~~State Board of Education~~] shall administer the
6-12 assessment instruments. [~~The State Board of Education shall adopt~~
6-13 ~~a schedule for the administration of end-of-course assessment~~
6-14 ~~instruments that complies with the requirements of Subsection~~
6-15 ~~(c-3).~~]

6-16 (c-3) Except as provided by Subsection (c-7), in [~~In~~]
6-17 adopting a schedule for the administration of assessment
6-18 instruments under this section, the commissioner [~~State Board of~~
6-19 ~~Education~~] shall ensure that [~~require:~~

6-20 [~~(1)~~] assessment instruments administered under
6-21 Subsection (a) or (c) are not [~~to be~~] administered on the first
6-22 instructional day of a week [~~a schedule so that the first assessment~~
6-23 ~~instrument is administered at least two weeks later than the date on~~
6-24 ~~which the first assessment instrument was administered under~~
6-25 ~~Subsection (a) during the 2006-2007 school year; and~~

6-26 [~~(2)~~] the spring administration of end-of-course
6-27 assessment instruments under Subsection (c) to occur in each school
6-28 district not earlier than the first full week in May, except that
6-29 the spring administration of the end-of-course assessment
6-30 instruments in English I and English II must be permitted to occur
6-31 at an earlier date].

6-32 (c-7) Subsection (c-3) does not apply to a classroom
6-33 portfolio method used to assess writing performance if student
6-34 performance under that method is less than 50 percent of a student's
6-35 overall assessed performance in writing.

6-36 (c-8) Beginning with the 2022-2023 school year, an
6-37 assessment instrument developed under Subsection (a) or (c) may not
6-38 present more than 75 percent of the questions in a multiple choice
6-39 format.

6-40 (o) The agency shall adopt or develop optional interim
6-41 assessment instruments for each subject or course for each grade
6-42 level subject to assessment under this section. A school district
6-43 may not be required to administer interim assessment instruments
6-44 adopted or developed under this subsection. An interim assessment
6-45 instrument:

6-46 (1) must be:
6-47 (A) predictive of the assessment instrument for
6-48 the applicable subject or course for that grade level required
6-49 under this section; and

6-50 (B) administered electronically; and
6-51 (2) may not be used for accountability purposes.

6-52 SECTION 11. Subchapter B, Chapter 39, Education Code, is
6-53 amended by adding Section 39.02302 to read as follows:

6-54 Sec. 39.02302. ADVISORY COMMITTEES FOR ASSESSMENT
6-55 INSTRUMENTS. (a) The commissioner shall appoint a technical
6-56 advisory committee to advise the commissioner and the agency
6-57 regarding the development of valid and reliable assessment
6-58 instruments for purposes of this chapter. The members of the
6-59 committee must be experts on educational assessments and
6-60 psychometrics.

6-61 (b) The commissioner shall appoint an educator advisory
6-62 committee to advise the commissioner and the agency regarding the
6-63 development of academically appropriate assessment instruments for
6-64 purposes of this chapter. The members of the committee must include
6-65 experts in curriculum and instruction.

6-66 (c) The agency may compensate a member of the technical or
6-67 educator advisory committee or reimburse the member for expenses
6-68 incurred in the performance of duties related to the member's
6-69 service on the committee.

7-1 (d) The selection of or payment to a member of the technical
7-2 or educator advisory committee is not subject to Chapter 2110 or
7-3 2254, Government Code.

7-4 SECTION 12. Section 39.0234, Education Code, is amended to
7-5 read as follows:

7-6 Sec. 39.0234. ELECTRONIC ADMINISTRATION OF ASSESSMENT
7-7 INSTRUMENTS [BY COMPUTER]. (a) The agency shall ensure that
7-8 assessment instruments required under Section 39.023 are capable of
7-9 being administered electronically [by computer].

7-10 (b) A school district shall administer each assessment
7-11 instrument required under Section 39.023 electronically unless the
7-12 district receives a waiver from the commissioner. This subsection
7-13 does not apply to the administration of an assessment instrument to
7-14 a student who requires accommodations in the administration of the
7-15 assessment instrument that are not available if administered
7-16 electronically.

7-17 (c) Except as provided by Section 39.02341, a school
7-18 district must comply with Subsection (b) beginning with the
7-19 2022-2023 school year. This subsection expires September 1, 2023.
7-20 [The commissioner may not require a school district or
7-21 open-enrollment charter school to administer an assessment
7-22 instrument by computer.]

7-23 SECTION 13. Subchapter B, Chapter 39, Education Code, is
7-24 amended by adding Sections 39.02341, 39.0236, and 39.0237 to read
7-25 as follows:

7-26 Sec. 39.02341. TRANSITION TO ELECTRONIC ADMINISTRATION OF
7-27 ASSESSMENT INSTRUMENTS. (a) The agency shall develop a transition
7-28 plan to administer all assessment instruments required under
7-29 Section 39.023 electronically beginning not later than the
7-30 2022-2023 school year.

7-31 (b) As part of the transition plan, the agency may provide
7-32 results on an assessment instrument required under Section 39.023
7-33 on an accelerated schedule to school districts that administer the
7-34 assessment instrument electronically. For purposes of this
7-35 subsection, the commissioner by rule may require the results on an
7-36 assessment instrument administered electronically to be reported
7-37 to the district as soon as practicable after administration.

7-38 (c) As part of the transition plan, the commissioner may
7-39 require a school district to comply with Section 39.0234(b) before
7-40 the 2022-2023 school year.

7-41 (d) Not later than December 1, 2020, the agency shall submit
7-42 to the governor, the lieutenant governor, and the members of the
7-43 legislature a report on the progress of transitioning to electronic
7-44 administration of all assessment instruments required under
7-45 Section 39.023. The report must include:

7-46 (1) information from school districts assessing the
7-47 needs of those districts in transitioning to electronic
7-48 administration;

7-49 (2) any recommended changes to state law to assist in
7-50 the transition; and

7-51 (3) any recommended adjustments to the timeline for
7-52 statewide implementation of electronic administration.

7-53 (e) Not later than December 1, 2022, the agency shall submit
7-54 to the governor, the lieutenant governor, and the members of the
7-55 legislature a report on the anticipated impact to school districts
7-56 of the implementation of electronic administration of all
7-57 assessment instruments required under Section 39.023.

7-58 (f) This section expires September 1, 2023.

7-59 Sec. 39.0236. INTEGRATED FORMATIVE ASSESSMENT PILOT
7-60 PROGRAM. (a) The agency shall establish a pilot program in which
7-61 participating school districts administer to students integrated
7-62 formative assessment instruments for subjects or courses for a
7-63 grade level subject to assessment under Section 28.006 or 39.023.

7-64 (b) A school district may elect to participate in the pilot
7-65 program.

7-66 (c) A school district's participation in the pilot program
7-67 does not affect the district's obligations regarding the
7-68 administration of assessment instruments required under Section
7-69 39.023.

8-1 (d) Not later than December 1 of each even-numbered year,
8-2 the agency shall submit to the governor, the lieutenant governor,
8-3 and the members of the legislature a report on the pilot program
8-4 that includes:

8-5 (1) an analysis of whether the administration of
8-6 integrated formative assessment instruments under the pilot
8-7 program provided any improvement in instructional support during
8-8 the preceding two school years; and

8-9 (2) a determination of the feasibility of replacing
8-10 the assessment instruments required under Section 39.023 with
8-11 integrated formative assessment instruments.

8-12 Sec. 39.0237. CONSIDERATION OF PREKINDERGARTEN ASSESSMENT
8-13 INSTRUMENTS PROHIBITED. Performance on an assessment instrument
8-14 administered to students in prekindergarten may not be considered
8-15 for any purpose under this chapter or Chapter 39A.

8-16 SECTION 14. Section 39.0241(a), Education Code, is amended
8-17 to read as follows:

8-18 (a) The commissioner shall determine the level of
8-19 performance considered to be satisfactory on the assessment
8-20 instruments, including:

8-21 (1) an approaches grade level performance standard in
8-22 the applicable subject or course that indicates that a student is
8-23 likely to succeed in the subject for the subsequent grade level or
8-24 in the subsequent course with targeted intervention;

8-25 (2) a meets grade level performance standard in the
8-26 applicable subject or course that indicates that a student has a
8-27 high likelihood of success in the subject for the subsequent grade
8-28 level or in the subsequent course but may still need short-term,
8-29 targeted intervention; and

8-30 (3) a masters grade level performance standard in the
8-31 applicable subject or course that indicates that a student is
8-32 expected to succeed in the subject for the subsequent grade level or
8-33 in the subsequent course with little or no academic intervention.

8-34 SECTION 15. Section 39.026, Education Code, is amended to
8-35 read as follows:

8-36 Sec. 39.026. LOCAL OPTION. In addition to the assessment
8-37 instruments adopted by the agency [~~and administered by the State~~
8-38 ~~Board of Education~~], a school district may adopt and administer
8-39 criterion-referenced or norm-referenced assessment instruments, or
8-40 both, at any grade level. A norm-referenced assessment instrument
8-41 adopted under this section must be economical, nationally
8-42 recognized, and state-approved.

8-43 SECTION 16. Sections 39.0261(a), (e), and (f), Education
8-44 Code, are amended to read as follows:

8-45 (a) In addition to the assessment instruments otherwise
8-46 authorized or required by this subchapter:

8-47 (1) each school year and at state cost, a school
8-48 district may administer to students in the spring of the eighth
8-49 grade an established, valid, reliable, and nationally
8-50 norm-referenced preliminary college preparation assessment
8-51 instrument for the purpose of diagnosing the academic strengths and
8-52 deficiencies of students before entrance into high school;

8-53 (2) each school year and at state cost, a school
8-54 district may administer to students in the 10th grade an
8-55 established, valid, reliable, and nationally norm-referenced
8-56 preliminary college preparation assessment instrument for the
8-57 purpose of measuring a student's progress toward readiness for
8-58 college and the workplace; and

8-59 (3) high school students in the spring of the 11th
8-60 grade or during the 12th grade may select and take once, at state
8-61 cost:

8-62 (A) [7] one of the valid, reliable, and
8-63 nationally norm-referenced assessment instruments used by colleges
8-64 and universities as part of their undergraduate admissions
8-65 processes; or

8-66 (B) the assessment instrument designated by the
8-67 Texas Higher Education Coordinating Board under Section 51.334.

8-68 (e) Subsection (a)(3) does not prohibit a high school
8-69 student [~~in the spring of the 11th grade or during the 12th grade~~]

9-1 from selecting and taking, at the student's own expense, an
9-2 assessment instrument described by that subdivision [~~one of the~~
9-3 ~~valid, reliable, and nationally norm-referenced assessment~~
9-4 ~~instruments used by colleges and universities as part of their~~
9-5 ~~undergraduate admissions processes more than once~~].

9-6 (f) The provisions of this section regarding assessment
9-7 instruments administered under Subsection (a)(1) or (2) apply only
9-8 if the legislature appropriates funds for those purposes [~~of this~~
9-9 ~~section~~].

9-10 SECTION 17. Subchapter Z, Chapter 39A, Education Code, is
9-11 amended by adding Section 39A.907 to read as follows:

9-12 Sec. 39A.907. ASSESSMENT INSTRUMENT STUDY. (a) The
9-13 commissioner shall contract for a study to determine whether, for
9-14 each applicable grade level, each assessment instrument
9-15 administered under Section 39.023(a) during the 2018-2019 school
9-16 year or scheduled to be administered during the 2019-2020 school
9-17 year is written at the appropriate reading level for students in
9-18 that grade level and includes only passages written at a reading
9-19 level not higher than the grade level at which the assessment
9-20 instrument is administered.

9-21 (b) In contracting for the study, the commissioner shall use
9-22 a competitive process to select an independent entity to conduct
9-23 the study that is not an entity that develops or otherwise reviews
9-24 assessment instruments under Chapter 39.

9-25 (c) Chapter 2254, Government Code, does not apply to a
9-26 contract procured under this section.

9-27 (d) Not later than December 1, 2019, the commissioner shall
9-28 submit a report to the governor, the lieutenant governor, the
9-29 legislature, and the presiding officer of each legislative standing
9-30 committee with jurisdiction over primary and secondary education
9-31 that includes the results of the study.

9-32 (e) This section expires September 1, 2021.

9-33 SECTION 18. Section 21.410, Education Code, is repealed.

9-34 SECTION 19. Unless this Act provides for an effective date
9-35 later than September 1, 2019, this Act applies beginning with the
9-36 2019-2020 school year.

9-37 SECTION 20. Except as otherwise provided by this Act:

9-38 (1) this Act takes effect immediately if this Act
9-39 receives a vote of two-thirds of all the members elected to each
9-40 house, as provided by Section 39, Article III, Texas Constitution;
9-41 and

9-42 (2) if this Act does not receive the vote necessary for
9-43 immediate effect, this Act takes effect September 1, 2019.

9-44 * * * * *