

## **BILL ANALYSIS**

Senate Research Center

H.B. 2804  
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Education  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Interested parties have argued that the state's school accountability system has relied too much on state standardized exams and does not comprehensively evaluate school performance. These interested parties also assert that this overreliance on state exams has unintentionally narrowed the focus of teaching and learning. H.B. 2804 seeks to limit the use of state standardized tests in the school accountability system and expand the use of other indicators of student success and school performance.

H.B. 2804 amends current law relating to evaluation of public school performance and to student physical fitness assessment.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education in SECTION 2 (Section 39.053, Education Code), SECTION 5 (Section 39.054, Education Code), and SECTION 7 (Section 39.0546, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner of education is modified in SECTION 4 (Section 39.054, Education Code) and SECTION 5 (Section 39.054, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner of education is rescinded in SECTION 21 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Section 39.053, Education Code, to read as follows:

Sec. 39.053. PERFORMANCE INDICATORS: ACHIEVEMENT.

SECTION 2. Amends Section 39.053, Education Code, by amending Subsections (a), (b), (c), (f), (g), and (g-1) and adding Subsection (a-1), as follows:

(a) Requires the commissioner of education (commissioner) to adopt a set of indicators of the quality of learning and achievement, rather than student achievement.

(a-1) Requires that the indicators adopted by the commissioner under Subsection (a), including the indicators identified under Subsection (c), measure and evaluate school districts and campuses with respect to:

(1) improving student preparedness for success in:

(A) subsequent grade levels; and

(B) entering the workforce, the military, or postsecondary education;

(2) reducing, with the goal of eliminating, student academic achievement differentials among students from different racial and ethnic groups and socioeconomic backgrounds; and

(3) informing parents and the community regarding campus and district performance in the domains described by Subsection (c) and, for the domain described by Subsection (c)(5), in accordance with local priorities and preferences.

(b) Requires that performance on the achievement indicators, rather than student achievement indicators, adopted under Subsections (c)(1)-(4), rather than adopted under this section, be compared to state-established standards.

(c) Requires school districts and campuses to be evaluated based on five domains of indicators of achievement adopted under this section that include, rather than requires that indicators of student achievement adopted under this section include:

(1) in the first domain, the results of:

(A) assessment instruments required under Sections 39.023(a) (requiring the Texas Education Agency (TEA) to adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in certain subjects), (c) (requiring TEA to also adopt end-of-course assessment instruments for secondary-level courses in certain subjects), and (l) (requiring the State Board of Education to adopt rules for the administration of assessment instruments adopted under Subsection (a) in Spanish to students in grades three through five), including the results of assessment instruments required for graduation retaken by a student, aggregated across grade levels by subject area, including:

(i) for the performance standard determined by the commissioner under Section 39.0241(a) (requiring the commissioner to determine the level of performance considered to be satisfactory on the assessment instruments), the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and

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

(B) assessment instruments required under Section 39.023(b) (requiring TEA to develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to a student in a special education program), aggregated across grade levels by subject area, 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;

(2) in the second domain:

(A) for assessment instruments under Subdivision (1)(A):

(i) for the performance standard determined by the commissioner under Section 39.0241(a), the percentage of students who met the standard for annual improvement on the assessment instruments, as determined by the commissioner by rule or by the method for measuring annual improvement under Section 39.034 (Measure of

Annual Improvement in Student Achievement), aggregated across grade levels by subject area; and

(ii) for the college readiness performance standard as determined under Section 39.0241, the percentage of students who met the standard for annual improvement on the assessment instruments, as determined by the commissioner by rule or by the method for measuring annual improvement under Section 39.034, aggregated across grade levels by subject area; and

(B) for assessment instruments under Subdivision (1)(B), the percentage of students who met the standard for annual improvement on the assessment instruments, as determined by the commissioner by rule or by the method for measuring annual improvement under Section 39.034, aggregated across grade levels by subject area;

(3) in the third domain, the student academic achievement differentials among students from different racial and ethnic groups and socioeconomic backgrounds;

(4) in the fourth domain:

(A) for evaluating the performance of high school campuses and districts that include high school campuses:

(i) dropout rates, including dropout rates and district completion rates for grade levels 9 through 12, computed in accordance with standards and definitions adopted by the National Center for Education Statistics of the United States Department of Education;

(ii) high school graduation rates, computed in accordance with standards and definitions adopted in compliance with the No Child Left Behind Act of 2001 (20 U.S.C. Section 6301 et seq.);

(iii) the percentage of students who successfully completed the curriculum requirements for the distinguished level of achievement under the foundation high school program;

(iv) the percentage of students who successfully completed the curriculum requirements for an endorsement under Section 28.025(c-1) (authorizing a student to earn an endorsement on the student's diploma and transcript by successfully completing curriculum requirements for that endorsement);

(v) the percentage of students who completed a coherent sequence of career and technical courses;

(vi) the percentage of students who satisfy the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board (THECB) under Section 51.3062(f) (requiring that each assessment instrument designated by the board for use under this section be diagnostic in nature) on an assessment instrument in reading, writing, or mathematics designated by THECB under Section 51.3062(c) (requiring THECB to designate one or more instruments for use);

(vii) the percentage of students, rather than the number of students, who earn at least 12 hours of postsecondary credit required for the foundation high school program under Section 28.025 (High School Diploma and Certificate; Academic Achievement Record) or to earn an endorsement under Section 28.025(c-1);

(viii) the percentage of students who have completed an advanced placement course;

(ix) the percentage of students who enlist in the armed forces of the United States; and

(x) the percentage of students who earn an industry certification;

(B) for evaluating the performance of middle and junior high school and elementary school campuses and districts that include those campuses:

(i) student attendance;

(ii) the percentage of elementary school students assigned for two consecutive school years to a teacher who has less than one year of teaching experience or who does not hold the appropriate certificate required under Section 21.003 (Certification Required); and

(iii) for middle and junior high school campuses, dropout rates, computed in the manner described by Paragraph (A)(i); or

(C) any additional indicators of student achievement not associated with performance on standardized assessment instruments determined appropriate for consideration by the commissioner in consultation with educators, parents, business and industry representatives, and employers; and

(5) in the fifth domain, three programs or specific categories of performance related to community and student engagement locally selected and evaluated as provided by Section 39.0546.

Deletes existing text requiring that indicators of student achievement adopted under this section include certain results of assessment instruments and certain indicators of achievement adopted under this section as set forth.

(f) Requires the commissioner, annually, to define the state standard for the current school year for each achievement indicator, rather than each student achievement indicator, described by Subsections (c)(1)-(4), rather than Subsection (c), and to project the state standards for each indicator for the following two school years. Requires the commissioner to periodically raise the state standards for the college readiness achievement indicator, rather than student achievement indicator, described by Subsection (c)(1)(A)(ii), rather than (c)(1)(B)(i), for accreditation as necessary to reach the goals of achieving, by not later than the 2019-2020 school year:

(1) Makes no change to this subdivision; and

(2) Makes a nonsubstantive change.

(g) Prohibits the commissioner from considering, in defining the required state standard for the dropout rate indicator described by Subsections (c)(4)(A)(i) and (B)(iii), rather than Subsection (c)(2), as a dropout a student whose failure to attend school results from:

(1) and (2) Makes no change to these subdivisions.

(g-1) Requires the commissioner, in computing dropout and completion rates under Subsections (c)(4)(A)(i) and (B)(iii), rather than Subsection (c)(2), to exclude:

(1)-(6) Makes no change to these subdivisions.

SECTION 3. Amends Subchapter C, Chapter 39, Education Code, by adding Section 39.0535, effective September 1, 2015, as follows:

Sec. 39.0535. TEMPORARY PROVISION: ASSIGNMENT OF PERFORMANCE RATINGS. (a) Requires the commissioner, notwithstanding any other law, to assign each district and campus a performance rating not later than August 15 of each year.

(b) Provides that this section expires September 1, 2016.

SECTION 4. Amends Section 39.054(a), Education Code, effective September 1, 2016, as follows:

(a) Requires the commissioner to adopt rules to evaluate school district and campus performance and assign each district and campus a performance rating, rather than assign each district a performance rating of A, B, C, D, or F. Requires the commissioner, in adopting rules under this subsection, to determine the criteria for each performance rating, rather than for each designated letter performance rating. Requires that the performance rating of each district and campus, not later than August 15, rather than August 8, of each year, be made publicly available as provided by rules adopted under this subsection.

Deletes existing text providing that a district performance rating of A, B, or C reflects acceptable performance and a district performance rating of D or F reflects unacceptable performance. Deletes existing text requiring the commissioner to also assign each campus a performance rating of exemplary, recognized, acceptable, or unacceptable. Deletes existing text providing that a campus performance rating of exemplary, recognized, or acceptable reflects acceptable performance, and a campus performance rating of unacceptable reflects unacceptable performance. Deletes existing prohibiting a district from receiving a performance rating of A if the district includes any campus with a performance rating of unacceptable.

SECTION 5. Amends Section 39.054, Education Code, by amending Subsections (a), (c), (e), and (f) and adding Subsections (a-1), (a-2), (a-3), and (a-4), effective September 1, 2017, as follows:

(a) Requires the commissioner to, after consulting with the performance rating work group described by Subsection (a-3), adopt rules to evaluate school district and campus performance and assign each district and campus an overall performance rating of A, B, C, D, or F. Requires the commissioner, in addition to the overall performance rating, to assign each district and campus a separate domain performance rating of A, B, C, D, or F for each domain under Sections 39.053(c)(1)-(4). Provides that an overall or domain performance rating of A reflects exemplary performance, rather than provides that a district performance rating of A, B, or C reflects acceptable performance and a district performance rating of D or F reflects unacceptable performance. Provides that an overall or domain performance rating of B reflects recognized performance. Provides that an overall or domain performance rating of C reflects acceptable performance. Provides that an overall or domain performance rating of D or F reflect unacceptable performance. Prohibits a district from receiving an overall or domain performance rating of A if the district includes any campus with a corresponding overall or domain performance rating of D or F, rather than a performance rating of unacceptable. Provides that a reference in law to an acceptable rating or acceptable performance includes an overall or domain performance rating of A, B, or C or exemplary, recognized, or acceptable performance.

Deletes existing text requiring the commissioner, in adopting rules under this subsection, to determine the criteria for each designated letter performance rating. Deletes existing text requiring the commissioner to also assign each campus a performance rating of exemplary, recognized, acceptable, or unacceptable. Deletes existing text providing that a campus performance rating of exemplary, recognized, or acceptable reflects acceptable

performance, and a campus performance rating of unacceptable reflects unacceptable performance.

(a-1) Requires the commissioner, for purposes of assigning an overall performance rating under Subsection (a), to attribute 55 percent of the performance evaluation to the achievement indicators for the first, second, and third domains under Sections 39.053(c)(1)-(3), 35 percent of the performance evaluation to the achievement indicators for the fourth domain under Section 39.053(c)(4), and 10 percent of the performance evaluation to the locally selected and evaluated achievement indicators provided for under the fifth domain under Section 39.053(c)(5). Requires the commissioner by rule to adopt procedures to ensure that a repeated performance rating of D or F or unacceptable in one domain, particularly performance that is not significantly improving, is reflected in the overall performance rating of a district or campus and is not compensated for by a performance rating of A, B, or C in another domain.

(a-2) Requires that the performance ratings, rather than rating, not later than August 15, rather than August 8, of each year, be made publicly available as provided by rules adopted under this section, rather than subsection. Requires the commissioner, if a district or campus received an overall or domain performance rating of D or F, rather than a performance rating that reflected unacceptable performance, for the preceding school year, to notify the district of a subsequent such designation on or before June 15.

(a-3) Requires the commissioner, for the purpose of adopting rules under Subsection (a), to convene a performance rating work group comprised of individuals designated as follows:

(1) two members of a school district board of trustees, each of whom:

(A) is nominated by a statewide association that serves school district board members; and

(B) serves on a separate school district board of trustees;

(2) two superintendents, each of whom is nominated by a statewide association that serves school superintendents;

(3) one elementary school principal who is nominated by a statewide association that serves elementary school principals;

(4) one secondary school principal who is nominated by a statewide association that serves secondary school principals;

(5) four classroom educators, with one each nominated by each of the four largest associations that serve educators in at least 20 counties in this state; and

(6) three parents designated by the commissioner, at least one of whom must be the parent of a student who was enrolled at a campus that has received the lowest performance rating in one or more of the three years preceding the designation of that parent by the commissioner.

(a-4) Authorizes the commissioner, if an association described by Subsection (a-3) fails to nominate one or more individuals for a position on the performance rating work group, to designate an individual who meets the appropriate qualifications to fill that position.

(c) Requires the commissioner, in evaluating school district and campus performance on the achievement indicators for student performance on assessment instruments adopted under Sections 39.053(c)(1) and (2) and the dropout rate indicator adopted under Sections 39.053(c)(4)(A)(i) and (B)(iii), rather than in evaluating school district and campus performance on the student achievement indicators adopted under Sections 39.053(c)(1) and (2), to define acceptable performance as meeting the state standard determined by the

commissioner under Section 39.053(f), rather than Section 39.053(e), for the current school year based on:

(1) and (2) Makes no change to these subdivisions.

(e) Requires that each annual performance review under this section include an analysis of the achievement indicators adopted under Sections 39.053(c)(1)-(4), to determine school district and campus performance in relation to standards established for each indicator.

Deletes existing text requiring that each annual performance review under this section include an analysis of the student achievement indicators adopted under Section 39.053(c) to determine school district and campus performance in relation to required improvement as defined under Section 39.053(e).

(f) Prohibits a student who is released from a juvenile pre-adjudication secure correctional facility and fails to enroll in school or a student who leaves a residential treatment center after receiving treatment for fewer than 85 days and fails to enroll in school, in the computation of dropout rates under Sections 39.053(c)(4)(A)(i) and (B)(iii), rather than Section 39.053(c)(2), from being considering to have dropped out from the school district or campus serving the facility or center unless that district or campus is the one to which the student is regularly assigned.

SECTION 6. Amends Sections 39.0545(b), (c), and (d), Education Code, as added by Chapter 167 (S.B. 1538), Acts of the 83rd Legislature, Regular Session, 2013, as follows:

(b) Requires the commissioner, notwithstanding Section 39.053(c)(4)(A)(i), to use the alternative completion rate under this subsection to determine the dropout rate indicator under Section 39.053(c)(4)(A)(i) for a dropout recovery school, rather than requires the commissioner, notwithstanding Section 39.053(c)(2), to use the alternative completion rate under this subsection to determine the student achievement indicator under Section 39.053(c)(2) for a dropout recovery school.

(c) Requires the commissioner, notwithstanding Section 39.053(c)(4)(A)(i), rather than Section 39.053(c)(2), in determining the performance rating under Section 39.054 of a dropout recovery school, to include any student described by Section 39.053(g-1) who graduates or receives a high school equivalency certificate.

(d) Provides that, notwithstanding Section 39.053(c), for purposes of evaluating a dropout recovery school under the accountability procedures adopted by the commissioner to determine the performance rating of the school under Section 39.054:

(1) only the best result from the primary administration or any retake of an assessment instrument administered to a student in the school year evaluated may be considered; and

(2) only a student enrolled continuously for at least 90 days during the school year evaluated may be considered.

Deletes existing text providing that only the best result from the primary administration and any retake of an assessment instrument administered to a student in the school year evaluated under the accountability procedures adopted by the commissioner, for a dropout recovery school, may be considered in determining the performance rating of the school under Section 39.054.

SECTION 7. Amends Subchapter C, Chapter 39, Education Code, by adding Section 39.0546, as follows:

Sec. 39.0546. PERFORMANCE IN COMMUNITY AND STUDENT ENGAGEMENT AS COMPONENT OF OVERALL DISTRICT AND CAMPUS RATING. (a) Provides

that, for purposes of including the local evaluation of districts and campuses under Section 39.053(c)(5) and assigning an overall rating under Section 39.054, before the beginning of each school year:

(1) each school district shall:

(A) select and report to TEA three programs or categories under Section 39.0545(b)(1), as added by Chapter 211 (H.B. 5), Acts of the 83rd Legislature, Regular Session, 2013, under which the district will evaluate district performance;

(B) submit to TEA the criteria the district will use to evaluate district performance and assign the district a performance rating; and

(C) make the information described by Paragraphs (A) and (B) available on the district's Internet website; and

(2) each campus shall:

(A) select and report to TEA three programs or categories under Section 39.0545(b)(1), as added by Chapter 211 (H.B. 5), Acts of the 83rd Legislature, Regular Session, 2013, under which the campus will evaluate campus performance;

(B) submit to TEA the criteria the campus will use to evaluate campus performance and assign the campus a performance rating; and

(C) make the information described by Paragraphs (A) and (B) available on the Internet website of the campus.

(b) Requires each school district, based on the evaluation under this section, to assign the district and each campus to assign the campus a performance rating of A, B, C, D, or F, for both overall performance and for each program or category evaluated. Provides that an overall or a program or category performance rating of A reflects exemplary performance. Provides that an overall or a program or category performance rating of B reflects recognized performance. Provides that an overall or a program or category performance rating of C reflects acceptable performance. Provides that an overall or a program or category performance rating of D or F reflects unacceptable performance.

(c) Requires each school district and campus, on or before the date determined by the commissioner by rule, to report each performance rating to TEA for the purpose of including the rating in evaluating school district and campus performance and assigning an overall rating under Section 39.054.

SECTION 8. Amends Section 11.252(a), Education Code, as follows:

(a) Provides that the purpose of the district improvement plan is to guide district and campus staff in the improvement of student performance for all student groups in order to attain state standards in respect to the achievement indicators adopted under Sections 39.053(c)(1)-(4), rather than student achievement indicators adopted under Section 39.053. Changes references to student achievement indicators to achievement indicators.

SECTION 9. Amends Sections 11.253(c) and (d), Education Code, as follows:

(c) Requires the principal of each school campus, with the assistance of the campus-level committee, each school year, to develop, review, and revise the campus improvement plan for the purpose of improving student performance for all student populations,

including students in special education programs under Subchapter A (Special Education Program), Chapter 29 (Educational Programs), with respect to the achievement indicators, rather than student achievement indicators, adopted under Sections 39.053(c)(1)-(4), rather than Section 39.053, and any other appropriate performance measures for special needs populations.

(d) Changes references to student achievement indicator system to achievement indicator system.

SECTION 10. Amends Section 12.1013(c), Education Code, to require that a certain annual report concerning the performance of open-enrollment charter schools include the performance of each public school in each class described by Subsection (b) as measured by the achievement indicators, rather than the student achievement indicators, adopted under Sections 39.053(c)(1)-(4), rather than Section 39.053, and student attrition rates.

SECTION 11. Amends Section 29.062(a), Education Code, as follows:

(a) Provides that the legislature recognizes that compliance with this subchapter is an imperative public necessity. Requires TEA, therefore, in accordance with the policy of the state, to evaluate the effectiveness of programs under this subchapter based on the achievement indicators, rather than student achievement indicators, adopted under Sections 39.053(c)(1)-(4), rather than Section 39.053, including the results of assessment instruments.

SECTION 12. Amends Section 39.023(a-8), Education Code, as effective on or before September 1, 2015, to provide that the results of an assessment instrument administered under this subsection may not be included as an indicator of achievement, rather than of student achievement, under Section 39.053 or any other provision.

SECTION 13. Amends Section 39.052(b), Education Code, to change a reference to student achievement indicators to achievement indicators.

SECTION 14. Amends Section 39.055, Education Code, to change a reference to student achievement indicator to achievement indicator.

SECTION 15. Amends Section 39.056(b), Education Code, to change a reference to student achievement indicators to achievement indicators.

SECTION 16. Amends Section 39.102(a), Education Code, to change a reference to student achievement indicator to academic achievement indicator.

SECTION 17. Amends Section 39.263(a), Education Code, to change a reference to student achievement indicators to achievement indicators.

SECTION 18. Amends Section 39.301(b), Education Code, to require that performance on the indicators adopted under this section be evaluated in the same manner provided for evaluation of the achievement indicators, rather than the student achievement indicators, under Sections 39.053(c)(1)-(4), rather than Section 39.053(c).

SECTION 19. Amends Section 39.305(b), Education Code, to change a reference to student achievement indicators to achievement indicators.

SECTION 20. Amends Sections 39.332(b)(2) and (20), Education Code, to change references to student achievement indicators to achievement indicators.

SECTION 21. Repealers: Subchapter C (Physical Fitness Assessment), Chapter 38 (Health and Safety), and Sections 39.053(e) (requiring performance on the student achievement indicators under Subsections (c)(1) and (2) be compared to state standards and required improvement) and 39.054(b) (requiring the commissioner to evaluate against state standards and consider the performance of each campus in a school district), (d) (providing that the commissioner, in

evaluating performance under Subsection (c), perform certain duties), and (d-1) (authorizing the commissioner to consider alternative performance criteria to Subsection (d)(1)(A) only in special circumstances), Education Code.

SECTION 22. Requires the commissioner, not later than December 1, 2016, to adopt the set of indicators to measure and evaluate school districts and campuses as required by Section 39.053, Education Code, as amended by this Act.

SECTION 23. Requires the commissioner, not later than January 1, 2017, to submit a report to the standing committees of the legislature having primary jurisdiction over primary and secondary education that provides for a preliminary evaluation of school districts and campuses under Section 39.054, Education Code. Requires that the report include:

(1) the rating each school district and campus would have received for the first through fourth domains of indicators as provided by Sections 39.053(c)(1)-(4), Education Code, as amended by this Act, for the 2015-2016 school year if the indicators adopted by the commissioner of education under Section 39.053, Education Code, as amended by this Act, existed during the 2015-2016 school year;

(2) the correlation between each designated letter performance rating the school district or campus would have received and the percentage of students at each district and campus:

(A) qualifying for the free or reduced-price breakfast under the national school breakfast programs provided for by the Child Nutrition Act of 1966 (42 U.S.C. Section 1773);

(B) that are students of limited English proficiency as defined by Section 29.052, Education Code; and

(C) disaggregated by race, ethnicity, and socioeconomic status used to assign ratings in the system.

SECTION 24. (a) Provides that this Act, except as provided by Subsections (b) and (c) of this section, applies beginning with the 2017-2018 school year.

(b) Provides that Section 3 of this Act applies beginning with the 2015-2016 school year.

(c) Provides that Section 4 of this Act applies beginning with the 2016-2017 school year.

SECTION 25. Effective date, except as otherwise provided by this Act: upon passage or September 1, 2015.