

By: _____ .B. No. _____

Substitute the following for .B. No. _____:

By: _____ C.S. .B. No. _____

A BILL TO BE ENTITLED

1 AN ACT

2 relating to public education, including the adoption, development,
3 administration, and use of assessment instruments in public
4 schools, the adoption of assessment instruments under the Texas
5 Success Initiative, and the establishment of an education savings
6 account program.

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

8 ARTICLE 1. ASSESSMENT AND ACCOUNTABILITY

9 SECTION 1.001. Section 26.005, Education Code, is amended
10 to read as follows:

11 Sec. 26.005. PARENTAL RIGHT [ACCESS] TO REVIEW STATE
12 ASSESSMENTS. A [Except as provided by Section 39.023(e), a] parent
13 is entitled to review the questions and answer key [access to a
14 copy] of each state assessment instrument administered under
15 Section 39.023 to the parent's child in accordance with Section
16 39.0222(c) after the assessment instrument is administered.

17 SECTION 1.002. Subchapter B, Chapter 28, Education Code, is
18 amended by adding Section 28.02511 to read as follows:

19 Sec. 28.02511. HIGH SCHOOL DIPLOMA FOR CERTAIN PERSONS NOT
20 GRANTED DIPLOMA BEFORE 2023-2024 SCHOOL YEAR. (a) This section
21 applies only to a person who:

- 22 (1) no longer attends a public school;
23 (2) successfully completed the curriculum
24 requirements for high school graduation; and

1 (3) did not qualify to graduate and receive a high
2 school diploma based solely on the person's failure to perform
3 satisfactorily on an end-of-course or state assessment instrument
4 required for graduation.

5 (b) Notwithstanding any other law, a school district or
6 open-enrollment charter school shall issue a high school diploma to
7 a person to whom this section applies at the person's request.

8 (c) The State Board of Education may adopt rules to
9 administer this section.

10 SECTION 1.003. Subchapter B, Chapter 39, Education Code, is
11 amended by adding Sections 39.0221, 39.0222, 39.0223, and 39.0224
12 to read as follows:

13 Sec. 39.0221. TRANSITION TO TEXAS SUCCESS INITIATIVE
14 ASSESSMENT. (a) As soon as practicable and not later than the
15 2027-2028 school year, the agency shall:

16 (1) adopt or develop assessment instruments in
17 accordance with Sections 39.023 and 39.0236 as those sections were
18 amended by __.B. __, Acts of the 88th Legislature, Regular
19 Session, 2023;

20 (2) submit the assessment instruments described by
21 Subdivision (1) for federal approval; and

22 (3) transition from the State of Texas Assessment of
23 Academic Readiness (STAAR) assessment instrument and implement the
24 assessment instruments described by Subdivision (1).

25 (b) Until the agency implements assessment instruments
26 described by Section 39.0236, as that section was amended by __.B.
27 ____, Acts of the 88th Legislature, Regular Session, 2023, the

1 agency shall continue to administer assessment instruments in
2 accordance with former Section 39.023(a), as that section existed
3 on September 1, 2022, except that the agency may not administer an
4 assessment instrument under former Section 39.023(a)(3).

5 (c) Until the agency implements assessment instruments
6 under Section 39.023(c), as that section was amended by ___B. ___,
7 Acts of the 88th Legislature, Regular Session, 2023:

8 (1) the agency shall continue to administer, and
9 students shall be assessed if the student is in the applicable
10 course, assessment instruments in accordance with former Section
11 39.023(c), including requirements applicable to those assessment
12 instruments under Sections 39.0232 and 39.0233, in the same manner
13 as those sections existed on September 1, 2022; and

14 (2) in this title, a reference, as appropriate, to the
15 following, with respect to an assessment instrument under Section
16 39.023(c), means an assessment instrument under Section 39.023(c)
17 as that section existed on September 1, 2022:

18 (A) assessed under, adopted under, administered
19 under, developed under, required by, required under, or under
20 Section 39.023; and

21 (B) administered under, adopted under, as
22 provided by, described by, developed under, listed in, required by,
23 required under, specified under, or under Section 39.023(c).

24 (d) The agency may require school districts to participate
25 in a pilot program for assessment instruments adopted or developed
26 under Sections 39.023 and 39.0236, as those sections were amended
27 by ___B. ___, Acts of the 88th Legislature, Regular Session,

1 2023, and report information as necessary to implement the
2 assessment instruments. A school district's participation in the
3 pilot program does not affect the district's obligations regarding
4 the administration of assessment instruments required under
5 Section 39.023.

6 (e) On December 1 of each even-numbered year, the agency
7 shall submit to the governor, the lieutenant governor, and the
8 members of the legislature a report on the transition to assessment
9 instruments under this section. The report must include
10 recommendations for statutory changes to ensure a successful
11 transition from the State of Texas Assessment of Academic Readiness
12 (STAAR) assessment instrument.

13 (f) This section expires September 1, 2028.

14 Sec. 39.0222. STATEWIDE ASSESSMENT PROGRAM AND
15 ADMINISTRATION. (a) The agency by rule shall create and implement
16 a statewide assessment program aligned with the essential knowledge
17 and skills adopted by the State Board of Education as described by
18 Section 39.021 to ensure public school accountability for student
19 achievement that achieves the goals provided under Section 4.002.
20 Assessment instruments administered under the assessment program
21 must be as short as practicable and designed to minimize disruption
22 of educational programs. The agency shall consider the importance
23 of maintaining stability in the statewide assessment program when
24 adopting subsequent modifications to agency rules governing the
25 assessment program.

26 (b) The agency shall provide for the administration of
27 assessment instruments under the statewide assessment program. A

1 school district shall comply with agency rules regarding the
2 administration of assessment instruments under the assessment
3 program and this subchapter.

4 (c) The admission, review, and dismissal committee of a
5 student in a special education program under Subchapter A, Chapter
6 29, shall determine whether any allowable modification is necessary
7 in administering to the student an assessment instrument required
8 under this subchapter.

9 (d) In administering the statewide assessment program, the
10 agency shall:

11 (1) adopt policies and procedures to ensure as much
12 transparency for parents as practicable with respect to the
13 assessment program;

14 (2) establish rules allowing for parental review of
15 scored questions on any assessment instrument in accordance with
16 Section 26.005 and in a manner that maintains test security, after
17 that assessment instrument has been administered to the parent's
18 child; and

19 (3) provide for the release to the public of
20 questions, and answer keys for those questions, which will no
21 longer be used in upcoming assessment instruments.

22 (e) In order to ensure a valid bank of questions for use each
23 year, the agency is not required to release a question that is being
24 field-tested and was not used to compute the student's score on the
25 assessment instrument. The agency may defer releasing assessment
26 instrument questions and answer keys as required by Subsection
27 (d)(3) and in accordance with this subsection to the extent

1 necessary to develop additional assessment instruments.

2 Sec. 39.0223. SCHEDULING OF ASSESSMENTS. (a) In adopting a
3 schedule for the administration of assessment instruments under
4 Section 39.023, the agency shall ensure that assessment instruments
5 administered under Section 39.023(a), (c), or (l) are not
6 administered on the first instructional day of a week.

7 (b) On request by a school district or open-enrollment
8 charter school, the commissioner may allow the district or school
9 to administer an assessment instrument required under Section
10 39.023(a), (c), or (l) on the first instructional day of a week if
11 administering the assessment instrument on another instructional
12 day would result in a significant administrative burden due to
13 specific local conditions.

14 (c) Not later than two years before the administration of
15 any assessment instrument under Section 39.023, the agency shall
16 publish a schedule for the administration of that assessment
17 instrument. To the extent practicable and for the purpose of
18 mitigating local scheduling conflicts, including University
19 Interscholastic League competitions, a schedule for the
20 administration of assessment instruments must allow a school
21 district or open-enrollment charter school to choose from multiple
22 days within a testing window within which to administer an
23 assessment instrument.

24 (d) The agency by rule may provide alternate dates for the
25 administration of assessment instruments to a student who is a
26 migratory child, as defined by 20 U.S.C. Section 6399.

27 Sec. 39.0224. ASSESSMENT INSTRUMENT STANDARDS. (a) The

1 agency shall gather data and conduct research to substantiate any
2 correlation:

3 (1) between:

4 (A) the performance standards set under Section
5 39.0241 for the assessment instrument required under Section
6 39.023(c)(1); and

7 (B) achievement of college readiness, as defined
8 by Section 39.024(a), and participation in military service and
9 career programs, as described by Section 39.024(i); and

10 (2) between:

11 (A) the performance standards set under Section
12 39.0241 for assessment instruments under Section 39.023; and

13 (B) achievement in the same content area assessed
14 by the assessment instrument for the next grade level.

15 (b) To the extent practicable and subject to Section 39.024,
16 the agency shall ensure that each assessment instrument adopted
17 under Section 39.023(c) is:

18 (1) developed in a manner that measures a student's
19 performance under the college readiness standards established
20 under Section 28.008; and

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

23 SECTION 1.004. Sections 39.023(a), (a-2), (c), (c-5), (h),
24 (i), and (l), Education Code, are amended to read as follows:

25 (a) The agency shall adopt or develop appropriate
26 criterion-referenced assessment instruments designed to assess
27 essential knowledge and skills in reading, mathematics, [~~social~~

1 ~~studies,~~] and science. Except as provided by Subsection (a-2), all
2 students, other than students assessed under Subsection (b) or (1)
3 or exempted under Section 39.027, shall be assessed in:

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

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

7 (3) [~~social studies, in grade eight,~~

8 [~~4~~] science, in grades five and eight; and

9 (4) [~~5~~] any other subject and grade required by
10 federal law.

11 (a-2) Except as required by federal law, a student is not
12 required to be assessed in a subject otherwise assessed at the
13 student's grade level under Subsection (a) if the student:

14 (1) is enrolled in a course in the subject intended for
15 students above the student's grade level and will be administered
16 an assessment instrument adopted or developed under Subsection (a)
17 that aligns with the curriculum for the course in which the student
18 is enrolled; or

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

23 (c) Students shall be assessed using the assessment
24 instruments adopted or developed under this section. The agency
25 shall also adopt or develop:

26 (1) an assessment instrument for assessing
27 performance at the secondary level administered to students

1 enrolled in grade 11 that:

2 (A) assesses the mastery of essential knowledge
3 and skills expected for mathematics and English language arts on a
4 student's completion of grade 11;

5 (B) correlates with college readiness standards
6 under Section 39.024 for mathematics and English language arts; and

7 (C) demonstrates a growth in student achievement
8 in areas in which the student was assessed in grade nine by the
9 assessment instrument required under Subdivision (2);

10 (2) a preliminary assessment instrument for the
11 assessment under Subdivision (1) administered to students enrolled
12 in grade nine; and

13 (3) an ~~[end-of-course]~~ assessment instrument
14 administered ~~[instruments]~~ for ~~[secondary-level]~~ courses in
15 ~~[Algebra I,]~~ biology ~~[, English I, English II,]~~ and United States
16 history. ~~[The Algebra I end-of-course assessment instrument must~~
17 ~~be administered with the aid of technology, but may include one or~~
18 ~~more parts that prohibit the use of technology. The English I and~~
19 ~~English II end-of-course assessment instruments must each assess~~
20 ~~essential knowledge and skills in both reading and writing and must~~
21 ~~provide a single score. A school district shall comply with State~~
22 ~~Board of Education rules regarding administration of the assessment~~
23 ~~instruments listed in this subsection. If a student is in a special~~
24 ~~education program under Subchapter A, Chapter 29, the student's~~
25 ~~admission, review, and dismissal committee shall determine whether~~
26 ~~any allowable modification is necessary in administering to the~~
27 ~~student an assessment instrument required under this subsection.~~

1 ~~The State Board of Education shall administer the assessment~~
2 ~~instruments. An end-of-course assessment instrument may be~~
3 ~~administered in multiple parts over more than one day. The State~~
4 ~~Board of Education shall adopt a schedule for the administration of~~
5 ~~end-of-course assessment instruments that complies with the~~
6 ~~requirements of Subsection (c-3).]~~

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

10 (h) The agency shall notify school districts and campuses of
11 the results of assessment instruments administered under this
12 section not later than the 21st day after the date the assessment
13 administration window established by the agency under Section
14 39.0223(c) closes, unless validity and reliability standards
15 require otherwise [~~instrument is administered~~]. The school
16 district shall disclose to each district teacher the results of
17 assessment instruments administered to students taught by the
18 teacher in the subject for the school year in which the assessment
19 instrument is administered.

20 (i) The provisions of this section[~~, except Subsection~~
21 ~~(d),~~] are subject to modification by rules adopted under Section
22 39.0222 [~~39.022~~]. Each assessment instrument adopted under those
23 rules [~~and each assessment instrument required under Subsection~~
24 ~~(d)~~] must be reliable and valid and must meet any applicable federal
25 requirements for measurement of student progress.

26 (l) Assessment [~~The State Board of Education shall adopt~~
27 ~~rules for the administration of the assessment~~] instruments adopted

1 or developed under Subsection (a) must be made available in Spanish
2 to emergent bilingual students in grades three through five, as
3 defined by Section 29.052, whose primary language is Spanish, and
4 who are not otherwise exempt from the administration of an
5 assessment instrument under Section 39.027(a)(1) or (2). Each
6 emergent bilingual student whose primary language is Spanish, other
7 than a student to whom Subsection (b) applies, may be assessed using
8 assessment instruments in Spanish under this subsection for up to
9 three years or assessment instruments in English under Subsection
10 (a). The language proficiency assessment committee established
11 under Section 29.063 shall determine which students are
12 administered assessment instruments in Spanish under this
13 subsection.

14 SECTION 1.005. Section 39.0232, Education Code, is amended
15 to read as follows:

16 Sec. 39.0232. USE OF [~~END-OF-COURSE~~] ASSESSMENT INSTRUMENT
17 AS PLACEMENT INSTRUMENT; CERTAIN USES PROHIBITED. (a) The [~~To the~~
18 ~~extent practicable, the~~] agency, in coordination with the Texas
19 Higher Education Coordinating Board, shall adopt or develop the
20 [~~ensure that any~~] high school [~~end-of-course~~] assessment
21 instrument under Section 39.023(c)(1) [~~developed by the agency is~~
22 ~~developed~~] in such a manner that the assessment instrument may be
23 used to determine the appropriate placement of a student in a course
24 of the same subject matter at an institution of higher education in
25 accordance with Subchapter F-1, Chapter 51.

26 (b) A student's performance on an [~~end-of-course~~]
27 assessment instrument administered under Section 39.023(c) may not

1 be used:

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

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

8 (c) Subsection (b)(2) does not prohibit a general academic
9 teaching institution from implementing an admission policy that
10 takes into consideration a student's performance on an
11 ~~[end-of-course]~~ assessment instrument administered under Section
12 39.023(c) in addition to other criteria.

13 (d) In this section, "general academic teaching
14 institution" has the meaning assigned by Section 61.003.

15 (e) For purposes of this section, the agency shall offer not
16 less than three administration dates per year for the assessment
17 instrument under Section 39.023(c)(1) to:

- 18 (1) students enrolled in grade 12; and
19 (2) students enrolled in a grade level below grade 12
20 only as necessary to establish qualifications for dual credit
21 courses or other purposes authorized by commissioner rule.

22 SECTION 1.006. Section 39.0234, Education Code, is amended
23 by adding Subsections (c) and (d) to read as follows:

24 (c) The agency by rule may designate sections of a
25 mathematics assessment instrument for a grade level under Section
26 39.023(a)(1) that:

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

1 (2) must be completed without the aid of technology.

2 (d) The agency shall adopt rules under which a student who
3 is determined to have dyslexia or a related disorder and who is not
4 exempt under Section 39.027(a) may, to demonstrate the student's
5 mastery of the competencies the assessment instruments are designed
6 to measure:

7 (1) use procedures, including oral examinations, if
8 appropriate; or

9 (2) be allowed additional time or the materials or
10 technology necessary for the student.

11 SECTION 1.007. The heading to Section 39.0236, Education
12 Code, is amended to read as follows:

13 Sec. 39.0236. THROUGH-YEAR ~~[INTEGRATED~~ FORMATIVE]
14 ASSESSMENT ~~[PILOT PROGRAM]~~.

15 SECTION 1.008. Sections 39.0236(a) and (b), Education Code,
16 are amended to read as follows:

17 (a) The agency shall establish:

18 (1) each assessment instrument required under Section
19 39.023(a) or (1) as a through-year assessment, unless otherwise
20 provided by commissioner rule; and

21 (2) a schedule for the administration of assessment
22 instruments described by Subdivision (1) that provides for three
23 administrations of the assessment instrument during a single school
24 year ~~[a pilot program in which participating school districts~~
25 ~~administer to students integrated formative assessment instruments~~
26 ~~for subjects or courses for a grade level subject to assessment~~
27 ~~under Section 28.006 or 39.023]~~.

1 (b) The agency shall adopt or develop a version of an
2 assessment described by Subsection (a)(1) that is designed to
3 assess a student's mastery of the appropriate essential knowledge
4 and skills in a single administration. The commissioner shall
5 provide for the use of an assessment instrument under this
6 subsection for students who are unable to participate in
7 administrations of a through-year assessment, as determined by the
8 commissioner [~~A school district may elect to participate in the~~
9 ~~pilot program~~].

10 SECTION 1.009. Section 39.0241, Education Code, is amended
11 by adding Subsection (e) to read as follows:

12 (e) From funds appropriated for the purpose, the agency
13 shall develop and make available training materials and technical
14 assistance for administrators and teachers regarding best
15 practices for assessments, including appropriate and inappropriate
16 uses for state-administered assessment instruments.

17 SECTION 1.010. Section 39.0263, Education Code, is amended
18 to read as follows:

19 Sec. 39.0263. LOCAL ASSESSMENT OPTION; ADMINISTRATION OF
20 DISTRICT-REQUIRED BENCHMARK ASSESSMENT INSTRUMENTS [~~TO PREPARE~~
21 ~~STUDENTS FOR STATE-ADMINISTERED ASSESSMENT INSTRUMENTS~~]. (a) In
22 this section, "benchmark assessment instrument" means a
23 district-required assessment instrument designed to prepare
24 students for a corresponding state-administered assessment
25 instrument.

26 (a-1) In addition to the assessment instruments adopted and
27 administered by the agency under Section 39.023, a school district

1 may adopt and administer to students enrolled in any grade level
2 criterion-referenced assessment instruments, norm-referenced
3 assessment instruments, or assessment instruments that are both
4 criterion-referenced and norm-referenced. A norm-referenced
5 assessment instrument adopted under this section must be
6 economical, nationally recognized, and state-approved.

7 (a-2) State and national norms of averages must be computed
8 using data that are not more than eight years old at the time the
9 assessment instrument is administered and that are representative
10 of the group of students to whom the assessment instrument is
11 administered.

12 (a-3) The standardization norms computed under Subsection
13 (a-2) must be:

14 (1) based on a national probability sample that meets
15 accepted standards for educational and psychological testing; and

16 (2) updated at least once every eight years using
17 proven psychometric procedures approved by the agency.

18 (b) Except as provided by Subsection (c), a school district
19 may not administer to any student:

20 (1) a benchmark assessment instrument designed to
21 prepare the student for a corresponding state-administered
22 assessment instrument under Section 39.023(a) or (1); and

23 (2) more than two benchmark assessment instruments to
24 prepare the student for a corresponding state-administered
25 assessment instrument under Section 39.023(c).

26 (b-1) Notwithstanding Subsection (b)(1), until assessment
27 instruments under Section 39.0236 have been adopted in accordance

1 with Section 39.0221, a school district may administer to a student
2 not more than two benchmark assessment instruments to prepare the
3 student for a corresponding state-administered assessment
4 instrument under Section 39.023(a) or (l). This subsection expires
5 September 1, 2028.

6 (c) The prohibition prescribed by Subsection (b) [~~this~~
7 ~~section~~] does not apply to the administration of a college
8 preparation assessment instrument, including the PSAT, the
9 ACT-Plan, the SAT, or the ACT, an advanced placement test, an
10 international baccalaureate examination, or an independent
11 classroom examination designed or adopted and administered by a
12 classroom teacher.

13 (d) A parent of or person standing in parental relation to a
14 student who has special needs, as determined in accordance with
15 commissioner rule, may request administration to the student of
16 additional benchmark assessment instruments.

17 (e) The agency shall adopt rules for the implementation of
18 this section and for the maintenance of the security of the contents
19 of all assessment instruments.

20 SECTION 1.011. Section 39.033(c), Education Code, is
21 amended to read as follows:

22 (c) Except for students participating in a program under
23 Subchapter J, Chapter 29, a [A] private school must reimburse the
24 agency for the cost of administering an assessment instrument under
25 this section. The State Board of Education shall determine the cost
26 under this section. The per-student cost may not exceed the cost of
27 administering the same assessment to a student enrolled in a public

1 school district.

2 SECTION 1.012. Section 39.053, Education Code, is amended
3 by amending Subsections (c) and (f) and adding Subsections (c-4),
4 (c-5), (c-6), (c-7), and (f-1) to read as follows:

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

8 (1) in the student achievement domain, indicators of
9 student achievement that must include:

10 (A) for evaluating the performance of districts
11 and campuses generally:

12 (i) an indicator that accounts for the
13 results of assessment instruments required under Sections
14 39.023(a), (c), and (l), as applicable for the district and campus,
15 ~~[including the results of assessment instruments required for~~
16 ~~graduation retaken by a student,]~~ aggregated across grade levels by
17 subject area, including:

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

23 (b) for the college readiness
24 performance standard as determined under Section 39.0241, the
25 percentage of students who performed satisfactorily on the
26 assessment instruments, aggregated across grade levels by subject
27 area; and

1 (ii) an indicator that accounts for the
2 results of assessment instruments required under Section
3 39.023(b), as applicable for the district and campus, including the
4 percentage of students who performed satisfactorily on the
5 assessment instruments, as determined by the performance standard
6 adopted by the agency, aggregated across grade levels by subject
7 area; and

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

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

16 (ii) students who satisfy relevant
17 performance standards on advanced placement tests or similar
18 assessments;

19 (iii) students who earn dual course credits
20 in the dual credit courses;

21 (iv) students who enlist in the armed
22 forces of the United States or the Texas National Guard;

23 (v) students who earn industry
24 certifications;

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

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

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

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

16 (x) students who successfully completed an
17 OnRamps dual enrollment course;

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

20 (xii) students who are awarded an associate
21 degree; and

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

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

26 (A) for assessment instruments, including
27 assessment instruments under Subdivisions (1)(A)(i) and (ii), the

1 percentage of students who met the standard for improvement, as
2 determined by the commissioner; and

3 (B) for evaluating relative performance, the
4 performance of districts and campuses compared to similar districts
5 or campuses; and

6 (3) in the closing the gaps domain, the use of
7 disaggregated data to demonstrate the differentials among students
8 from different racial and ethnic groups, socioeconomic
9 backgrounds, and other factors, including:

10 (A) students formerly receiving special
11 education services;

12 (B) students continuously enrolled; and

13 (C) students who are mobile.

14 (c-4) The agency shall study the college, career, and
15 military readiness indicators adopted under Subsection (c) to
16 determine the correlation of each indicator with post-secondary
17 success, including the correlation of industry certifications with
18 wages and available jobs. The assignment of value for an indicator
19 must be based on the strength of the indicator's correlation with
20 successful outcomes.

21 (c-5) The agency shall maintain a list of industry
22 certifications that are eligible for purposes of Subsection
23 (c)(1)(B)(v). The certifications must:

24 (1) be aligned to a program of study that, according to
25 labor market data, prepares students for high-wage, high-skill,
26 in-demand occupations;

27 (2) allow students to demonstrate mastery of the

1 skills required for occupations within an approved program of
2 study; and

3 (3) be obtained through an assessment of the knowledge
4 and skills provided by or determined by an independent, third-party
5 certifying entity using predetermined standards for knowledge,
6 skills, and competencies.

7 (c-6) The agency shall determine the eligibility of
8 industry certifications under Subsection (c-5) using the most
9 current labor market information and review the eligibility status
10 of each certification in accordance with the schedule under
11 Subsection (f-1). A certification the agency determines is no
12 longer eligible for purposes of Subsection (c)(1)(B)(v) shall be
13 removed from the list maintained under Subsection (c-5) not later
14 than two years after the date the agency makes the determination.
15 During the two years following an agency's determination under this
16 subsection that an industry certification is no longer eligible for
17 purposes of Subsection (c)(1)(B)(v), a school district may not
18 receive the benefit of achievement indicators based on that
19 industry certification for purposes of Subsection (c) in excess of
20 the state average issuance rate for the preceding school year.

21 (c-7) The commissioner shall by rule incorporate
22 satisfactory performance rates on assessment instruments
23 administered under Section 39.023(c)(1) for purposes of
24 determining a district's or campus's graduation rate under
25 Subsection (c)(1)(B)(ix).

26 (f) On a schedule as provided by Subsection (f-1)
27 [Annually], the commissioner shall define the state standard for

1 the current school year for each achievement indicator adopted
2 under this section. In consultation with educators, parents, and
3 business and industry representatives, as necessary, the
4 commissioner shall establish, ~~and~~ modify, and increase standards
5 to continuously improve student performance to achieve the goals of
6 eliminating achievement gaps based on race, ethnicity, and
7 socioeconomic status and to ensure this state ranks nationally ~~is~~
8 ~~a national leader~~ in the top five states in preparing students for
9 postsecondary success.

10 (f-1) Beginning with the performance standards on
11 achievement indicators adopted for the 2022-2023 school year and as
12 required to meet the goals under Subsection (f), the commissioner
13 shall increase the performance standards on achievement indicators
14 adopted under this section only every fourth year unless an
15 achievement indicator adopted under Subsection (c) requires
16 adjustment to ensure consistency of performance standards. For each
17 of the two years preceding the year the commissioner increases the
18 performance standards under this section, the commissioner shall
19 report the modified performance standards for achievement
20 indicators adopted under this section that the commissioner would
21 have established if the commissioner increased the performance
22 standards to achieve the goals under Subsection (f) annually rather
23 than every fourth year.

24 SECTION 1.013. Section 39.054, Education Code, is amended
25 by amending Subsection (a-3) and adding Subsections (c) and (d) to
26 read as follows:

27 (a-3) Except as provided by Subsection (c), not ~~Not~~ later

1 than August 15 of each year, the following information shall be made
2 publicly available as provided by rules adopted under this section:

3 (1) the performance ratings for each school district
4 and campus; and

5 (2) if applicable, the number of consecutive school
6 years of unacceptable performance ratings for each district and
7 campus.

8 (c) The commissioner shall make the information under
9 Subsection (a-3) available as soon as reasonably possible in years
10 in which the standards are recalibrated or in which a new assessment
11 instrument is offered.

12 (d) Failure to meet the deadline provided by Subsection
13 (a-3) does not invalidate a performance rating assigned to a school
14 district or campus or any consequent interventions or sanctions
15 imposed on the district or campus if the ratings are not issued by
16 the deadline under that subsection.

17 SECTION 1.014. Section 51.334, Education Code, is amended
18 by adding Subsections (d) and (d-1) to read as follows:

19 (d) The board must designate the assessment instrument
20 under Section 39.023(c)(1) for purposes of Subsection (a).

21 (d-1) Subsection (d) does not apply unless the agency has
22 adopted or developed the assessment instrument under Section
23 39.023(c)(1), as that section was amended by __.B. ____, Acts of the
24 88th Legislature, Regular Session, 2023, in accordance with Section
25 39.0221. This subsection expires September 1, 2028.

26 SECTION 1.015. Section 51.337(a), Education Code, is
27 amended to read as follows:

1 (a) A student may retake an assessment instrument
2 designated by the board for use under this subchapter at any time
3 after the student's high school graduation to determine readiness
4 to perform freshman-level academic coursework.

5 SECTION 1.016. The following provisions of the Education
6 Code are repealed:

- 7 (1) Section 12.104(b-2);
- 8 (2) Sections 12.260(b) and (c);
- 9 (3) Section 19.0043(c);
- 10 (4) Sections 28.025(c-6) and (d);
- 11 (5) Section 28.02541;
- 12 (6) Section 28.0255(h);
- 13 (7) Section 28.0258;
- 14 (8) Section 28.0259;
- 15 (9) Section 28.02591;
- 16 (10) Sections 29.081(b), (b-1), (b-2), and (b-3);
- 17 (11) Section 30.104(c);
- 18 (12) Section 33.0812;
- 19 (13) Section 39.022;
- 20 (14) Sections 39.023(a-4), (c-1), (c-2), (c-3),
21 (c-4), (c-6), (c-7), (c-9), (d), (e), (e-1), (g), and (o);
- 22 (15) Section 39.0233;
- 23 (16) Sections 39.0236(c) and (d);
- 24 (17) Section 39.025;
- 25 (18) Section 39.026;
- 26 (19) Section 39.0262;
- 27 (20) Section 39.027(b);

- 1 (21) Section 39.029;
- 2 (22) Section 39.032;
- 3 (23) Sections 39.034(d) and (d-1);
- 4 (24) Sections 39.053(c-2) and (d); and
- 5 (25) Sections 51.338(c) and (d).

6 SECTION 1.017. This article applies beginning with the
7 2023-2024 school year.

8 ARTICLE 2. CONFORMING AMENDMENTS FOR ASSESSMENT AND
9 ACCOUNTABILITY

10 SECTION 2.001. Section 7.056(e), Education Code, is amended
11 to read as follows:

12 (e) Except as provided by Subsection (f), a school campus or
13 district may not receive an exemption or waiver under this section
14 from:

15 (1) a prohibition on conduct that constitutes a
16 criminal offense;

17 (2) a requirement imposed by federal law or rule,
18 including a requirement for special education or bilingual
19 education programs; or

20 (3) a requirement, restriction, or prohibition
21 relating to:

22 (A) essential knowledge or skills under Section
23 28.002 or high school graduation requirements under Section 28.025;

24 (B) public school accountability as provided by
25 Subchapters B, C, D, and J, Chapter 39, and Chapter 39A;

26 (C) extracurricular activities under Section
27 33.081 [~~or participation in a University Interscholastic League~~

1 ~~area, regional, or state competition under Section 33.0812];~~

2 (D) health and safety under Chapter 38;

3 (E) purchasing under Subchapter B, Chapter 44;

4 (F) elementary school class size limits, except
5 as provided by Section 25.112;

6 (G) removal of a disruptive student from the
7 classroom under Subchapter A, Chapter 37;

8 (H) at-risk programs under Subchapter C, Chapter
9 29;

10 (I) prekindergarten programs under Subchapter E,
11 Chapter 29;

12 (J) educator rights and benefits under
13 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter
14 A, Chapter 22;

15 (K) special education programs under Subchapter
16 A, Chapter 29;

17 (L) bilingual education programs under
18 Subchapter B, Chapter 29; or

19 (M) the requirements for the first day of
20 instruction under Section 25.0811.

21 SECTION 2.002. Section 12.104(b-3), Education Code, is
22 amended to read as follows:

23 (b-3) An open-enrollment charter school is subject to the
24 graduation qualification procedure established by the commissioner
25 under Section 28.02511 [~~28.02541~~].

26 SECTION 2.003. Section 12.257(b), Education Code, is
27 amended to read as follows:

1 (b) A charter granted under this subchapter must:

2 (1) include a description of the adult education
3 program to be offered under this subchapter; and

4 (2) establish specific, objective standards for
5 receiving a high school diploma, including[+]

6 [~~(A)~~] successful completion of:

7 (A) [~~(i)~~] if applicable to the program
8 participant, the curriculum requirements under Section 28.025; or

9 (B) [~~(ii)~~] the appropriate curriculum
10 requirements applicable to the program participant[+ and

11 [~~(B) satisfactory performance on the~~
12 ~~standardized secondary exit-level assessment instrument described~~
13 ~~by Section 12.260].~~

14 SECTION 2.004. Section 12.258(a), Education Code, is
15 amended to read as follows:

16 (a) A person who is at least 18 years of age and not more
17 than 50 years of age is eligible to enroll in an adult education
18 program operated under a charter granted under this subchapter if
19 the person[+]

20 [~~(1)~~] has failed to complete the curriculum
21 requirements for high school graduation[+ or

22 [~~(2) has failed to perform satisfactorily on an~~
23 ~~assessment instrument required for high school graduation].~~

24 SECTION 2.005. Sections 12.262(b-1) and (c-1), Education
25 Code, are amended to read as follows:

26 (b-1) For a school year before the 2024-2025 school year,
27 the accountability framework adopted under Subsection (a) shall

1 include the following performance measures:

2 (1) ~~[the percentage of program participants who~~
3 ~~performed satisfactorily on the standardized secondary exit-level~~
4 ~~assessment instrument described by Section 12.260(c),~~

5 ~~[(2)]~~ the percentage of program participants who
6 successfully completed the adult education program and earned a
7 high school diploma;

8 (2) ~~[(3)]~~ the percentage of program participants who
9 successfully completed career and technology education courses and
10 obtained industry certification within six months after completing
11 the adult education program;

12 (3) ~~[(4)]~~ the percentage of program participants who
13 have enrolled in an institution of higher education or private or
14 independent institution of higher education, as those terms are
15 defined under Section 61.003, within six months after completing
16 the adult education program; and

17 (4) ~~[(5)]~~ operational performance as measured under
18 the performance frameworks adopted under Section 12.1181.

19 (c-1) For a school year before the 2024-2025 school year,
20 the accountability framework adopted under Subsection (c) shall
21 include ~~[the following performance measures:~~

22 ~~[(1) the percentage of program participants who~~
23 ~~performed satisfactorily on the standardized secondary exit-level~~
24 ~~assessment instrument described by Section 12.260(c), and~~

25 ~~[(2)]~~ the percentage of program participants who
26 successfully completed the adult education program and earned a
27 high school diploma.

1 SECTION 2.006. Section 18.005(c), Education Code, is
2 amended to read as follows:

3 (c) A Job Corps diploma program shall:

4 (1) develop educational programs specifically
5 designed for persons eligible for enrollment in a Job Corps
6 training program established by the United States Department of
7 Labor;

8 (2) coordinate educational programs and services in
9 the diploma program with programs and services provided by the
10 United States Department of Labor and other federal and state
11 agencies and local political subdivisions and by persons who
12 provide programs and services under contract with the United States
13 Department of Labor;

14 (3) provide a course of instruction that includes the
15 required curriculum under Subchapter A, Chapter 28;

16 (4) require that students enrolled in the diploma
17 program be assessed in accordance with Section 39.023(c) [~~satisfy~~
18 ~~the requirements of Section 39.025 before receiving a diploma under~~
19 ~~this chapter~~]; and

20 (5) comply with a requirement imposed under this title
21 or a rule adopted under this title relating to the Public Education
22 Information Management System (PEIMS) to the extent necessary to
23 determine compliance with this chapter, as determined by the
24 commissioner.

25 SECTION 2.007. Section 18.006(b), Education Code, is
26 amended to read as follows:

27 (b) In addition to other factors determined to be

1 appropriate by the commissioner, the accountability system must
2 include consideration of:

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

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

8 SECTION 2.008. The heading to Section 19.0043, Education
9 Code, is amended to read as follows:

10 Sec. 19.0043. CREDIT FOR COMPLETION OF EDUCATIONAL
11 PROGRAMS; HIGH SCHOOL DIPLOMA [~~AND CERTIFICATE~~].

12 SECTION 2.009. Section 19.0043(b), Education Code, is
13 amended to read as follows:

14 (b) A student may graduate and receive a diploma from a
15 Windham School District educational program if:

16 (1) the student successfully completes the curriculum
17 requirements identified by the State Board of Education under
18 Section 28.025(a) [~~and complies with Section 39.025~~]; or

19 (2) the student successfully completes the curriculum
20 requirements under Section 28.025(a) as modified by an
21 individualized education program developed under Section 29.005.

22 SECTION 2.010. Section 25.005(b), Education Code, is
23 amended to read as follows:

24 (b) A reciprocity agreement must:

25 (1) address procedures for:

26 (A) transferring student records; and

27 (B) awarding credit for completed course work;

1 and

2 [~~(C) permitting a student to satisfy the~~
3 ~~requirements of Section 39.025 through successful performance on~~
4 ~~comparable end-of-course or other exit-level assessment~~
5 ~~instruments administered in another state; and]~~

6 (2) include appropriate criteria developed by the
7 agency.

8 SECTION 2.011. Section 28.014(a), Education Code, is
9 amended to read as follows:

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

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

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

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

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

25 SECTION 2.012. Section 28.021(c), Education Code, is
26 amended to read as follows:

27 (c) In determining promotion under Subsection (a), a school

1 district shall consider:

2 (1) the recommendation of the student's teacher;

3 (2) the student's grade in each subject or course; and

4 (3) ~~[the student's score on an assessment instrument~~
5 ~~administered under Section 39.023(a), (b), or (1), to the extent~~
6 ~~applicable; and~~

7 ~~[(4)]~~ any other necessary academic information, as
8 determined by the district.

9 SECTION 2.013. Section 28.0211(o), Education Code, is
10 amended to read as follows:

11 (o) This section does not require the administration of
12 a fifth or eighth grade assessment instrument in a subject under
13 Section 39.023(a) to a student enrolled in the fifth or eighth
14 grade, as applicable, if the student:

15 (1) is enrolled in a course in the subject intended for
16 students above the student's grade level and will be administered
17 an assessment instrument adopted or developed under Section
18 39.023(a) that aligns with the curriculum for the course in which
19 the student is enrolled; or

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

24 SECTION 2.014. Section 28.023(c), Education Code, is
25 amended to read as follows:

26 (c) A school district shall give a student in grade level
27 six or above credit for a subject on the basis of an examination for

1 credit in the subject approved by the board of trustees under
2 Subsection (a) if the student scores in the 80th percentile or above
3 on the examination or if the student achieves a score as provided by
4 Subsection (c-1). If a student is given credit in a subject on the
5 basis of an examination, the district shall enter the examination
6 score on the student's transcript and the student is not required to
7 take an ~~[end-of-course]~~ assessment instrument required ~~[adopted]~~
8 under Section 39.023(c) for that subject.

9 SECTION 2.015. The heading to Section 28.025, Education
10 Code, is amended to read as follows:

11 Sec. 28.025. HIGH SCHOOL DIPLOMA ~~[AND CERTIFICATE]~~;
12 ACADEMIC ACHIEVEMENT RECORD.

13 SECTION 2.016. Sections 28.025(b-4), (b-7), (c), (c-8), and
14 (e), Education Code, are amended to read as follows:

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

21 (b-7) The State Board of Education, in coordination with the
22 Texas Higher Education Coordinating Board, shall adopt rules to
23 ensure that a student may comply with the curriculum requirements
24 under the foundation high school program or for an endorsement
25 under Subsection (c-1) by successfully completing appropriate
26 courses in the core curriculum of an institution of higher
27 education under Section 61.822. Notwithstanding Subsection (b-15)

1 or (c) [~~of this section, Section 39.025,~~] or any other provision of
2 this code and notwithstanding any school district policy, a student
3 who has completed the core curriculum of an institution of higher
4 education under Section 61.822, as certified by the institution in
5 accordance with commissioner rule, is considered to have earned a
6 distinguished level of achievement under the foundation high school
7 program and is entitled to receive a high school diploma from the
8 appropriate high school as that high school is determined in
9 accordance with commissioner rule. A student who is considered to
10 have earned a distinguished level of achievement under the
11 foundation high school program under this subsection may apply for
12 admission to an institution of higher education for the first
13 semester or other academic term after the semester or other
14 academic term in which the student completes the core curriculum.

15 (c) A person may receive a diploma if the person is eligible
16 for a diploma under Section 28.0251. In other cases, a student may
17 graduate and receive a diploma only if:

18 (1) the student successfully completes the curriculum
19 requirements identified by the State Board of Education under
20 Subsection (a) and complies with Section [~~Sections~~] 28.0256 [~~and~~
21 ~~39.025~~]; or

22 (2) the student successfully completes an
23 individualized education program developed under Section 29.005.

24 (c-8) For purposes of Subsection (c-7), the admission,
25 review, and dismissal committee of a student in a special education
26 program under Subchapter A, Chapter 29, shall determine whether the
27 student is required to achieve satisfactory performance on an

1 ~~[end-of-course]~~ assessment instrument required under Section
2 39.023(c) to earn an endorsement on the student's transcript.

3 (e) Each school district shall report the academic
4 achievement record of students who have completed the foundation
5 high school program on transcript forms adopted by the State Board
6 of Education. ~~[The transcript forms adopted by the board must be
7 designed to clearly identify whether a student received a diploma
8 or a certificate of coursework completion.]~~

9 SECTION 2.017. Section 28.0255(g), Education Code, is
10 amended to read as follows:

11 (g) A student is entitled to a high school diploma if the
12 student~~+~~

13 ~~[(1)]~~ successfully complies with the curriculum
14 requirements specified under Subsection (e) ~~+, and~~

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

19 SECTION 2.018. Section 29.056(g), Education Code, is
20 amended to read as follows:

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

26 (1) agency-approved tests administered at the end of
27 each school year to determine the extent to which the student has

1 developed oral and written language proficiency and specific
2 language skills in English;

3 (2) satisfactory performance on the reading
4 assessment instrument under Section 39.023(a) or the [~~an~~] English
5 language arts assessment portion of the instrument under Section
6 39.023(c), as applicable, with the assessment instrument
7 administered in English, or, if the student is enrolled in the first
8 or second grade, an achievement score at or above the 40th
9 percentile in the reading and language arts sections of an English
10 standardized test approved by the agency; and

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

13 SECTION 2.019. Section 29.087(f), Education Code, is
14 amended to read as follows:

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

26 SECTION 2.020. Section 29.187(b), Education Code, is
27 amended to read as follows:

1 (b) An award granted under this section is not in lieu of a
2 diploma [~~or certificate of coursework completion~~] issued under
3 Section 28.025.

4 SECTION 2.021. Sections 29.402(b) and (c), Education Code,
5 are amended to read as follows:

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

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

12 (2) has failed to perform satisfactorily on an
13 end-of-course assessment instrument administered under Section
14 39.023(c) [~~or an assessment instrument administered under Section~~
15 ~~39.023(c)~~] as that section existed before amendment by ___B. ___,
16 Acts of the 88th Legislature, Regular Session, 2023 [~~Chapter 1312~~
17 ~~(S.B. 1031), Acts of the 80th Legislature, Regular Session, 2007~~].

18 (c) A public junior college under this section shall:

19 (1) design a dropout recovery curriculum that includes
20 career and technology education courses that lead to industry or
21 career certification;

22 (2) integrate into the dropout recovery curriculum
23 research-based strategies to assist students in becoming able
24 academically to pursue postsecondary education, including:

25 (A) high quality, college readiness instruction
26 with strong academic and social supports;

27 (B) secondary to postsecondary bridging that

1 builds college readiness skills, provides a plan for college
2 completion, and ensures transition counseling; and

3 (C) information concerning appropriate supports
4 available in the first year of postsecondary enrollment to ensure
5 postsecondary persistence and success, to the extent funds are
6 available for the purpose;

7 (3) offer advanced academic and transition
8 opportunities, including dual credit courses and college
9 preparatory courses, such as advanced placement courses; and

10 (4) coordinate with each partnering school district to
11 provide in the articulation agreement that the district retains
12 accountability for student attendance and [7] student completion of
13 high school course requirements [~~and student performance on~~
14 ~~assessment instruments~~] as necessary for the student to receive a
15 diploma from a high school of the partnering school district.

16 SECTION 2.022. Sections 29.9091(b) and (h), Education Code,
17 are amended to read as follows:

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

20 (1) include in the program:

21 (A) at least one grade level in which an
22 assessment instrument is required to be administered under Section
23 39.023(a), including each subject for which an assessment
24 instrument is required; or

25 (B) a complete high school program, including
26 each course for which the subject is assessed by an [~~end-of-course~~]
27 assessment instrument [~~is required to be~~] administered under

1 Section 39.023(c); and

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

5 (h) An assessment instrument administered under Section
6 39.023 [~~or 39.025~~] to a student enrolled in a virtual course offered
7 under a local remote learning program shall be administered to the
8 student in the same manner in which the assessment instrument is
9 administered to other school district or open-enrollment charter
10 school students.

11 SECTION 2.023. Section 30.021(e), Education Code, is
12 amended to read as follows:

13 (e) The school shall cooperate with public and private
14 agencies and organizations serving students and other persons with
15 visual impairments in the planning, development, and
16 implementation of effective educational and rehabilitative service
17 delivery systems associated with educating students with visual
18 impairments. To maximize and make efficient use of state
19 facilities, funding, and resources, the services provided in this
20 area may include conducting a cooperative program with other
21 agencies to serve students who have graduated from high school by
22 completing all academic requirements applicable to students in
23 regular education[~~, excluding satisfactory performance under~~
24 ~~Section 39.025,~~] who are younger than 22 years of age on September 1
25 of the school year and who have identified needs related to
26 vocational training, independent living skills, orientation and
27 mobility, social and leisure skills, compensatory skills, or

1 remedial academic skills.

2 SECTION 2.024. The heading to Section 30.104, Education
3 Code, is amended to read as follows:

4 Sec. 30.104. CREDIT FOR COMPLETION OF EDUCATIONAL PROGRAMS;
5 HIGH SCHOOL DIPLOMA [~~AND CERTIFICATE~~].

6 SECTION 2.025. Section 30.104(b), Education Code, is
7 amended to read as follows:

8 (b) A student may graduate and receive a diploma from a
9 department educational program if:

10 (1) the student successfully completes the curriculum
11 requirements identified by the State Board of Education under
12 Section 28.025(a) [~~and complies with Section 39.025~~]; or

13 (2) the student successfully completes the curriculum
14 requirements under Section 28.025(a) as modified by an
15 individualized education program developed under Section 29.005.

16 SECTION 2.026. Section 32.258(b), Education Code, is
17 amended to read as follows:

18 (b) The system established under Subsection (a) shall
19 provide a means for a student or the student's parent or other
20 person standing in parental relationship to track the student's
21 progress on assessment instruments [~~instrument requirements for~~
22 ~~graduation~~].

23 SECTION 2.027. Section 39.003(a), Education Code, is
24 amended to read as follows:

25 (a) The commissioner may authorize special investigations
26 to be conducted:

27 (1) when excessive numbers of absences of students

1 eligible to be tested on state assessment instruments are
2 determined;

3 (2) when excessive numbers of allowable exemptions
4 from the required state assessment instruments are determined;

5 (3) in response to complaints submitted to the agency
6 with respect to alleged violations of civil rights or other
7 requirements imposed on the state by federal law or court order;

8 (4) in response to established compliance reviews of
9 the district's financial accounting practices and state and federal
10 program requirements;

11 (5) when extraordinary numbers of student placements
12 in disciplinary alternative education programs, other than
13 placements under Sections 37.006 and 37.007, are determined;

14 (6) in response to an allegation involving a conflict
15 between members of the board of trustees or between the board and
16 the district administration if it appears that the conflict
17 involves a violation of a role or duty of the board members or the
18 administration clearly defined by this code;

19 (7) when excessive numbers of students in special
20 education programs under Subchapter A, Chapter 29, are assessed
21 through assessment instruments developed or adopted under Section
22 39.023(b);

23 (8) in response to an allegation regarding or an
24 analysis using a statistical method result indicating a possible
25 violation of an assessment instrument security procedure
26 established under Section 39.0301, including for the purpose of
27 investigating or auditing a school district under that section;

1 (9) when a significant pattern of decreased academic
2 performance has developed as a result of the promotion in the
3 preceding two school years of students who did not perform
4 satisfactorily as determined by the commissioner under Section
5 39.0241(a) on assessment instruments administered under Section
6 39.023(a), (c), or (l);

7 (10) when excessive numbers of students eligible to
8 enroll fail to complete an Algebra II course or any other advanced
9 course as determined by the commissioner;

10 (11) when resource allocation practices as evaluated
11 under Section 39.0821 indicate a potential for significant
12 improvement in resource allocation;

13 (12) when a disproportionate number of students of a
14 particular demographic group is graduating with a particular
15 endorsement under Section 28.025(c-1);

16 (13) when an excessive number of students is
17 graduating with a particular endorsement under Section
18 28.025(c-1);

19 (14) in response to a complaint submitted to the
20 agency with respect to alleged inaccurate data that is reported
21 through the Public Education Information Management System (PEIMS)
22 or through other reports required by state or federal law or rule or
23 court order and that is used by the agency to make a determination
24 relating to public school accountability, including accreditation,
25 under this chapter;

26 (15) ~~[when 10 percent or more of the students~~
27 ~~graduating in a particular school year from a particular high~~

1 ~~school campus are awarded a diploma based on the determination of an~~
2 ~~individual graduation committee under Section 28.0258,~~

3 ~~(16)~~ when a school district for any reason fails to
4 produce, at the request of the agency, evidence or an investigation
5 report relating to an educator who is under investigation by the
6 State Board for Educator Certification; or

7 (16) ~~(17)~~ as the commissioner otherwise determines
8 necessary.

9 SECTION 2.028. Section 39.024(i), Education Code, is
10 amended to read as follows:

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

- 15 (1) military service; or
16 (2) a workforce training, certification, or other
17 credential program at a postsecondary educational institution that
18 primarily offers associate degrees or certificates or credentials
19 other than baccalaureate or advanced degrees.

20 SECTION 2.029. Section 39.031, Education Code, is amended
21 to read as follows:

22 Sec. 39.031. COST. The cost of preparing, administering,
23 or grading the assessment instruments and releasing the question
24 and answer keys in accordance with procedures adopted under Section
25 39.0222(d)(3) ~~[39.023(e)]~~ shall be paid from amounts appropriated
26 to the agency.

27 SECTION 2.030. Section 39.035(a), Education Code, is

1 amended to read as follows:

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

7 SECTION 2.031. Section 39.0548(d), Education Code, is
8 amended to read as follows:

9 (d) Notwithstanding Section 39.053(c), for purposes of
10 evaluating a dropout recovery school under the accountability
11 procedures adopted by the commissioner to determine the performance
12 rating of the school under Section 39.054, only the best result from
13 the primary administration [~~or any retake of an assessment~~
14 ~~instrument administered to a student~~] in the school year evaluated
15 may be considered.

16 SECTION 2.032. Sections 39.203(c) and (d), Education Code,
17 are amended to read as follows:

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

24 (d) In addition to the distinction designations otherwise
25 described by this section, the commissioner may award a distinction
26 designation for outstanding performance in advanced middle or
27 junior high school student achievement to a campus with a

1 significant number of students below grade nine who perform
2 satisfactorily on an [~~end-of-course~~] assessment instrument
3 administered under Section 39.023(c).

4 SECTION 2.033. Section 39.303(b), Education Code, is
5 amended to read as follows:

6 (b) For a student who failed to perform satisfactorily as
7 determined under either performance standard under Section 39.0241
8 on an assessment instrument administered under Section 39.023(a),
9 (c), or (l), the school district shall include in the notice
10 specific information relating to access to educational resources at
11 the appropriate assessment instrument content level, including
12 assessment instrument questions and answers released in accordance
13 with procedures adopted under Section 39.0222(d)(3) [~~39.023(e)~~].

14 SECTION 2.034. Section 48.005(m-1), Education Code, is
15 amended to read as follows:

16 (m-1) Except for students enrolled in programs or courses
17 offered under Chapter 30A or Section 48.053, a school district or
18 open-enrollment charter school may not count for purposes of
19 calculating the district's or school's average daily attendance a
20 student who received virtual or remote instruction for a majority
21 of the instructional days during the preceding school year if the
22 student:

23 (1) did not achieve satisfactory performance or higher
24 or the equivalent in the preceding school year on:

25 (A) each assessment instrument administered to
26 the student under Section 39.023 [~~or 39.025~~]; or

27 (B) if the student was not administered an

1 assessment instrument that was required to be administered to the
2 student under Section 39.023 [~~or 39.025~~] during the preceding
3 school year, an assessment instrument designed to show grade-level
4 proficiency in the essential knowledge and skills identified under
5 Section 28.002 by the State Board of Education for the student's
6 grade level;

7 (2) had a number of unexcused absences that exceeds 10
8 percent of the number of instructional days in the preceding school
9 year; or

10 (3) did not earn a grade of C or higher or the
11 equivalent in each of the foundation curriculum courses taken
12 virtually or remotely in the preceding school year.

13 SECTION 2.035. Section 51.336(a), Education Code, is
14 amended to read as follows:

15 (a) An institution of higher education may refer a student
16 to developmental coursework, including basic academic skills
17 education, as considered necessary by the institution to address a
18 student's deficiencies in the student's readiness to perform
19 freshman-level academic coursework, except that the institution
20 may not require enrollment in developmental coursework with respect
21 to a student previously determined [~~under Section 51.338(d) or~~] by
22 any institution of higher education to have met college-readiness
23 standards.

24 SECTION 2.036. Section 56.3041, Education Code, is amended
25 to read as follows:

26 Sec. 56.3041. INITIAL ELIGIBILITY OF PERSON GRADUATING FROM
27 HIGH SCHOOL ON OR AFTER MAY 1, 2013. [~~(a)~~] To be eligible initially

1 for a TEXAS grant, a person graduating from high school on or after
2 May 1, 2013, and enrolling in an eligible institution must:

3 (1) be a resident of this state as determined by
4 coordinating board rules;

5 (2) meet the academic requirements prescribed by
6 Paragraph (A), (B), (C), or (D) as follows:

7 (A) be a graduate of a public or accredited
8 private high school in this state who completed the foundation high
9 school program established under Section 28.025 or its equivalent
10 and have accomplished any two or more of the following:

11 (i) successful completion of the course
12 requirements of the international baccalaureate diploma program or
13 earning of the equivalent of at least 12 semester credit hours of
14 college credit in high school through courses described in Sections
15 28.009(a)(1), (2), and (3);

16 (ii) satisfaction of the Texas Success
17 Initiative (TSI) college readiness benchmarks prescribed by the
18 coordinating board under Section 51.334 on any assessment
19 instrument designated by the coordinating board under that section
20 or qualification for an exemption as described by Section
21 51.338(b) [~~, (c), or (d)~~];

22 (iii) graduation in the top one-third of
23 the person's high school graduating class or graduation from high
24 school with a grade point average of at least 3.0 on a four-point
25 scale or the equivalent; or

26 (iv) completion for high school credit of
27 at least one advanced mathematics course following the successful

1 completion of an Algebra II course or at least one advanced career
2 and technical or technology applications course;

3 (B) have received an associate degree from a
4 public or private institution of higher education;

5 (C) be an undergraduate student who has:

6 (i) previously attended another
7 institution of higher education;

8 (ii) received an initial Texas Educational
9 Opportunity Grant under Subchapter P for the 2014 fall semester or a
10 subsequent academic term;

11 (iii) completed at least 24 semester credit
12 hours at any institution or institutions of higher education; and

13 (iv) earned an overall grade point average
14 of at least 2.5 on a four-point scale or the equivalent on all
15 course work previously attempted; or

16 (D) if sufficient money is available, meet the
17 eligibility criteria described by Section 56.304(a)(2)(A);

18 (3) meet financial need requirements established by
19 the coordinating board;

20 (4) be enrolled in an undergraduate degree or
21 certificate program at an eligible institution;

22 (5) except as provided under rules adopted under
23 Section 56.304(h), be enrolled as:

24 (A) an entering undergraduate student for at
25 least three-fourths of a full course load, as determined by the
26 coordinating board, not later than the 16th month after the
27 calendar month in which the person graduated from high school;

1 (B) an entering undergraduate student who
2 entered military service not later than the first anniversary of
3 the date the person graduated from high school and who enrolled for
4 at least three-fourths of a full course load, as determined by the
5 coordinating board, at the eligible institution not later than 12
6 months after being honorably discharged from military service;

7 (C) a continuing undergraduate student for at
8 least three-fourths of a full course load, as determined by the
9 coordinating board, not later than the 12th month after the
10 calendar month in which the person received an associate degree
11 from a public or private institution of higher education; or

12 (D) an undergraduate student described by
13 Subdivision (2)(C) who has never previously received a TEXAS grant;

14 (6) have applied for any available financial aid or
15 assistance; and

16 (7) comply with any additional nonacademic
17 requirements adopted by the coordinating board under this
18 subchapter.

19 SECTION 2.037. As soon as practicable, each school district
20 that provided notice to an eighth grade student during the
21 2022-2023 school year under Section 39.025(g), Education Code, as
22 that section existed before the repeal by this Act, shall send an
23 updated notice to that student informing the student of the
24 specific requirements applicable to the student under Section
25 39.023(c), as amended by this Act.

26 SECTION 2.038. This article applies beginning with the
27 2023-2024 school year.

1 ARTICLE 3. EDUCATION SAVINGS ACCOUNT PROGRAM

2 SECTION 3.001. The purpose of this article is to:

3 (1) provide additional educational options to assist
4 families in this state in exercising the right to direct the
5 educational needs of their children; and

6 (2) achieve a general diffusion of knowledge.

7 SECTION 3.002. Chapter 26, Education Code, is amended by
8 adding Section 26.0026 to read as follows:

9 Sec. 26.0026. RIGHT TO SELECT EDUCATIONAL SETTING. A
10 parent is entitled to choose the educational setting for the
11 parent's child, including public school, private school, or home
12 school.

13 SECTION 3.003. Chapter 29, Education Code, is amended by
14 adding Subchapter J to read as follows:

15 SUBCHAPTER J. EDUCATION SAVINGS ACCOUNT PROGRAM

16 Sec. 29.351. DEFINITIONS. In this subchapter:

17 (1) "Account" means an education savings account
18 established under the program.

19 (2) "Certified educational assistance organization"
20 means the organization certified under Section 29.354 to support
21 the administration of the program.

22 (3) "Child with a disability" means a child who is
23 eligible to participate in a school district's special education
24 program under Section 29.003.

25 (4) "Higher education provider" means an institution
26 of higher education or a private or independent institution of
27 higher education, as those terms are defined by Section 61.003.

1 (5) "Parent" means a resident of this state who is a
2 natural or adoptive parent, managing or possessory conservator,
3 legal guardian, custodian, or other person with legal authority to
4 act on behalf of a child.

5 (6) "Program" means the program established under this
6 subchapter.

7 (7) "Program participant" means a child and a parent
8 of a child enrolled in the program.

9 Sec. 29.352. ESTABLISHMENT OF PROGRAM. The comptroller
10 shall establish a program to provide funding for approved
11 education-related expenses of children participating in the
12 program.

13 Sec. 29.353. PROGRAM FUND. (a) The program fund is an
14 account in the general revenue fund to be administered by the
15 comptroller.

16 (b) The fund is composed of:

17 (1) money appropriated to the fund, including revenue
18 derived from the insurance premium taxes described by Section
19 227.001, Insurance Code, not otherwise dedicated as provided by
20 that section;

21 (2) gifts, grants, and donations received under
22 Section 29.370; and

23 (3) any other money available for purposes of the
24 program.

25 (c) Money in the fund may be appropriated only for the uses
26 specified by this subchapter.

27 Sec. 29.354. SELECTION OF CERTIFIED EDUCATIONAL ASSISTANCE

1 ORGANIZATION. (a) An organization may apply to the comptroller for
2 certification as the certified educational assistance organization
3 during an application period established by the comptroller.

4 (b) To be eligible for certification, an organization must:

5 (1) have the ability to perform the duties and
6 functions required of the certified educational assistance
7 organization under this subchapter;

8 (2) be in good standing with the state; and

9 (3) be able to assist the comptroller in administering
10 the program, including the ability to:

11 (A) accept, process, and track applications for
12 the program;

13 (B) assist prospective applicants, applicants,
14 and program participants with finding preapproved education
15 service providers and vendors of educational products;

16 (C) accept and process payments for approved
17 education-related expenses; and

18 (D) verify that program funding is used only for
19 approved education-related expenses.

20 (c) The comptroller may certify one educational assistance
21 organization to support the administration of the program,
22 including by:

23 (1) administering:

24 (A) the application process under Section
25 29.356; and

26 (B) the program expenditures process under
27 Section 29.360; and

1 (2) assisting prospective applicants, applicants, and
2 program participants with understanding approved education-related
3 expenses and finding preapproved education service providers and
4 vendors of educational products.

5 Sec. 29.355. ELIGIBLE CHILD. (a) A child is eligible to
6 participate in the program and may, subject to available funding
7 and the requirements of this subchapter, initially enroll in the
8 program for the current or following school year if the child is
9 eligible to attend a public school under Section 25.001 and:

10 (1) is educationally disadvantaged;

11 (2) is a child with a disability; or

12 (3) meets the following qualifications:

13 (A) either:

14 (i) was enrolled in a public school in this
15 state for at least 90 percent of the school year preceding the
16 school year for which the child applies to enroll in the program; or

17 (ii) is enrolling in kindergarten or first
18 grade for the first time; and

19 (B) meets at least one of the following criteria:

20 (i) is covered by Section 504,
21 Rehabilitation Act of 1973 (29 U.S.C. Section 794);

22 (ii) attended a school district campus that
23 received an overall performance rating of D or lower under Section
24 39.054 for one of the two most recent school years for which the
25 campus received a rating under that section, not including any
26 school year in which the campus received an overall performance
27 rating of "Not Rated"; or

1 (iii) is a sibling of a child participating
2 in the program.

3 (b) A child who establishes eligibility under this section
4 may, subject to available funding and the requirements of this
5 subchapter, participate in the program until the earliest of the
6 following dates:

7 (1) the date on which the child graduates from high
8 school;

9 (2) the date on which the child is no longer eligible
10 to attend a public school under Section 25.001;

11 (3) the date on which the child enrolls in a public
12 school, including an open-enrollment charter school, in a manner in
13 which the child will be counted toward the school's average daily
14 attendance for purposes of the allocation of funding under the
15 foundation school program; or

16 (4) the date on which the child is declared ineligible
17 for the program by the comptroller under this subchapter.

18 (c) Notwithstanding Subsection (a) or (b), a child is not
19 eligible to participate in the program during the period in which
20 the child's parent or legal guardian is a state representative or
21 state senator.

22 Sec. 29.356. APPLICATION TO PROGRAM. (a) A parent of an
23 eligible child may apply to the certified educational assistance
24 organization to enroll the child in the program for the following
25 school year. The comptroller shall establish quarterly deadlines
26 by which an applicant must complete and submit an application form
27 to participate in the program.

1 (b) On receipt of more acceptable applications during an
2 application period for admission under this section than available
3 positions in the program due to insufficient funding, the certified
4 educational assistance organization shall, at the direction of the
5 comptroller, prioritize applicants:

6 (1) in the following order:

7 (A) children who participated in the program
8 during a previous school year;

9 (B) children who were previously enrolled in a
10 public school; and

11 (C) children who were not previously enrolled in
12 a public school; and

13 (2) within each of the groups described by Subdivision
14 (1), as follows, as applicable:

15 (A) children with a disability or who are covered
16 by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794);

17 (B) children who attended a school district
18 campus described by Section 29.355(a)(3)(B)(ii); and

19 (C) children who are educationally
20 disadvantaged.

21 (b-1) For purposes of Subsection (b), the certified
22 educational assistance organization shall prioritize a child who is
23 initially eligible to participate in the program under Section
24 29.355(a)(3)(B)(iii) in the same manner as the child's sibling who
25 participates in the program.

26 (c) The comptroller shall create an application form for the
27 program and the certified educational assistance organization

1 shall make the application form readily available through various
2 sources, including the organization's Internet website. The
3 application form must state the quarterly application deadlines
4 established by the comptroller under Subsection (a). The
5 organization shall ensure that the application form, including any
6 required supporting document, is capable of being submitted to the
7 organization electronically.

8 (d) The certified educational assistance organization shall
9 post on the organization's Internet website an applicant and
10 participant handbook with a description of the program, including:

11 (1) expenses allowed under the program under Section
12 29.359;

13 (2) a list of preapproved education service providers
14 and vendors of educational products under Section 29.358;

15 (3) a description of the application process under
16 this section and the program expenditures process under Section
17 29.360; and

18 (4) a description of the responsibilities of program
19 participants.

20 (e) The certified educational assistance organization shall
21 annually provide to the parent of each child participating in the
22 program the information described by Subsection (d). The
23 organization may provide the information electronically.

24 (f) The certified educational assistance organization:

25 (1) may require the parent of a child participating in
26 the program to submit annual notice regarding the parent's intent
27 for the child to continue participating in the program for the next

1 school year; and

2 (2) may not require a program participant in good
3 standing to annually resubmit an application for continued
4 participation in the program.

5 Sec. 29.357. PARTICIPATION IN PROGRAM. To receive funding
6 under the program, a parent of a child participating in the program
7 must agree to:

8 (1) spend money received through the program only for
9 expenses allowed under Section 29.359;

10 (2) ensure the administration of assessment
11 instruments to the child in accordance with Section 29.371;

12 (3) refrain from selling an item purchased with
13 program money; and

14 (4) notify the certified educational assistance
15 organization not later than 30 business days after the date on which
16 the child:

17 (A) enrolls in a public school, including an
18 open-enrollment charter school;

19 (B) graduates from high school; or

20 (C) is no longer eligible to enroll in a public
21 school under Section 25.001.

22 Sec. 29.358. PREAPPROVED PROVIDERS. (a) The comptroller
23 shall by rule establish a process for the preapproval of education
24 service providers and vendors of educational products for
25 participation in the program. The comptroller shall allow for the
26 submission of applications on a rolling basis.

27 (b) The comptroller shall approve an education service

1 provider or vendor of educational products for participation in the
2 program if the provider or vendor:

3 (1) for a private school, demonstrates accreditation
4 by an organization recognized by:

5 (A) the Texas Private School Accreditation
6 Commission; or

7 (B) the agency;

8 (2) for a public school, demonstrates:

9 (A) accreditation by the agency; and

10 (B) the ability to provide services or products
11 to children participating in the program in a manner in which the
12 children are not counted toward the school's average daily
13 attendance;

14 (3) for a private tutor, therapist, or teaching
15 service:

16 (A) demonstrates that the tutor or therapist or
17 each employee of the teaching service who intends to provide
18 educational services to a child participating in the program:

19 (i) is an educator employed by or a retired
20 educator formerly employed by a school accredited by the agency, an
21 organization recognized by the agency, or an organization
22 recognized by the Texas Private School Accreditation Commission;

23 (ii) holds a relevant license or
24 accreditation issued by a state, regional, or national
25 certification or accreditation organization; or

26 (iii) is employed in or retired from a
27 teaching or tutoring capacity at a higher education provider;

1 (B) the tutor or therapist or each employee of
2 the teaching service who intends to provide educational services to
3 a child participating in the program either:

4 (i) completes a national criminal history
5 record information review; or

6 (ii) provides to the comptroller
7 documentation indicating that the tutor, therapist, or employee, as
8 applicable, has completed a national criminal history record
9 information review within a period established by comptroller rule;
10 and

11 (C) the tutor or therapist or each employee of
12 the teaching service who intends to provide educational services to
13 a child participating in the program is not included in the registry
14 under Section 22.092; or

15 (4) for a higher education provider, demonstrates
16 nationally recognized postsecondary accreditation.

17 (c) The comptroller shall review the national criminal
18 history record information or documentation for each private tutor,
19 therapist, or teaching service employee who submits information or
20 documentation under this section and verify that the individual is
21 not included in the registry under Section 22.092. The tutor,
22 therapist, or service must provide the comptroller with any
23 information requested by the comptroller to enable the comptroller
24 to complete the review.

25 (d) An education service provider or vendor of educational
26 products shall provide information requested by the comptroller to
27 verify the provider's or vendor's eligibility for preapproval under

1 Subsection (b). The comptroller may not approve a provider or
2 vendor if the comptroller cannot verify the provider's or vendor's
3 eligibility for preapproval.

4 (e) An education service provider or vendor of educational
5 products that no longer satisfies the requirements of this section
6 must notify the comptroller not later than the 30th business day
7 after the date that the provider or vendor no longer meets the
8 requirements.

9 (f) This section may not be construed to allow a learning
10 pod, as defined by Section 27.001, or a home school to qualify as an
11 approved education service provider or vendor of educational
12 products.

13 Sec. 29.359. APPROVED EDUCATION-RELATED EXPENSES. (a)
14 Subject to Subsection (b), money received under the program may be
15 used only for the following education-related expenses incurred by
16 a child participating in the program at a preapproved education
17 service provider or vendor of educational products:

- 18 (1) tuition and fees for:
19 (A) a private school;
20 (B) a higher education provider;
21 (C) an online educational course or program; or
22 (D) a program that provides training for an
23 industry-based credential;

24 (2) the purchase of textbooks or other instructional
25 materials or uniforms required by a school, higher education
26 provider, or course in which the child is enrolled, including
27 purchases made through a third-party vendor of educational

1 products;

2 (3) fees for classes or other educational services
3 provided by a public school, including an open-enrollment charter
4 school, if the classes or services do not qualify the child to be
5 included in the school's average daily attendance;

6 (4) costs related to academic assessments;

7 (5) fees for services provided by a private tutor or
8 teaching service;

9 (6) fees for transportation provided by a
10 fee-for-service transportation provider for the child to travel to
11 and from a preapproved education service provider or vendor of
12 educational products;

13 (7) fees for educational therapies or services
14 provided by a practitioner or provider, only for fees that are not
15 covered by any federal, state, or local government benefits such as
16 Medicaid or the Children's Health Insurance Program (CHIP) or by
17 any private insurance that the child is enrolled in at the time of
18 receiving the therapies or services;

19 (8) costs of computer hardware and software and other
20 technological devices prescribed by a physician to facilitate a
21 child's education, not to exceed in any year 10 percent of the total
22 amount paid to the program participant's account that year;

23 (9) costs of breakfast or lunch provided to a child
24 during the school day by a private school; and

25 (10) before- and after-school academic child-care.

26 (b) Money received under the program may not be used to pay
27 any person who is related to the program participant within the

1 third degree by consanguinity or affinity, as determined under
2 Chapter 573, Government Code.

3 (c) A finding that a program participant used money
4 distributed under the program to pay for an expense not allowed
5 under Subsection (a) does not affect the validity of any payment
6 made by the participant for an approved education-related expense
7 that is allowed under that subsection.

8 Sec. 29.360. PROGRAM EXPENDITURES. (a) The comptroller
9 shall disburse from the program fund to the certified educational
10 assistance organization the amount specified under Section
11 29.361(a) for each child participating in the program.

12 (b) To initiate payment to an education service provider or
13 vendor of educational products for an education-related expense
14 approved under Section 29.359, the parent of a child participating
15 in the program must submit a request in a form prescribed by
16 comptroller rule to the certified educational assistance
17 organization.

18 (c) Subject to Subsection (d) and Sections 29.362(g) and
19 29.364, on receiving a request under Subsection (b), the certified
20 educational assistance organization shall verify that the request
21 is for an expense approved under Section 29.359 and, not later than
22 the 15th business day after the date the organization verifies the
23 request, send payment to the education service provider or vendor
24 of educational products.

25 (d) A disbursement under this section may not exceed the
26 applicable program participant's account balance.

27 (e) The certified educational assistance organization shall

1 provide program participants with electronic access to:

2 (1) view the participant's current account balance;

3 (2) initiate the payment process under Subsection (b);

4 and

5 (3) view a summary of the participant's past account
6 activity, including payments from the account to education service
7 providers and vendors of educational products.

8 Sec. 29.361. AMOUNT OF PAYMENT; FINANCING. (a) Regardless
9 of the quarterly deadline by which the parent applies for
10 enrollment in the program under Section 29.356(a), a parent of a
11 child participating in the program shall receive each year that the
12 child participates in the program payments from the state from
13 funds available under Section 29.353 to the child's account equal
14 to the sum of:

15 (1) either:

16 (A) \$9,000, for a child who was educationally
17 disadvantaged at the time the child was initially determined to be
18 eligible for enrollment in the program; or

19 (B) \$7,500, for a child not described by
20 Subdivision (1); and

21 (2) for a child who was a child with a disability at
22 the time the child was initially determined to be eligible for
23 enrollment in the program, the greater of:

24 (A) \$1,500; or

25 (B) if applicable, the amount the school district
26 in which the child was previously enrolled was entitled to receive
27 for the child under Chapter 48 based on the child's participation in

1 the district's special education program for the most recent school
2 year in which the child participated in that program, as determined
3 by commissioner rule, including any funding based on the intensity
4 of service or service group for which the child qualified and
5 excluding any amount attributable to:

6 (i) the basic allotment under Section
7 48.051 for time the child spent in a general education setting; or

8 (ii) the allotment under Section 48.101.

9 (b) Any money remaining in a child's account at the end of a
10 fiscal year that is not obligated for expenses incurred during that
11 fiscal year shall be returned to the comptroller for deposit to the
12 program fund. The comptroller shall provide to a program
13 participant:

14 (1) not less than 90 days after the end of a fiscal
15 year for the program participant to demonstrate expenses incurred
16 during that fiscal year; and

17 (2) adequate notice of the return of money in the
18 account under this subsection.

19 (c) The parent of a child participating in the program may
20 make payments for the expenses of educational programs, services,
21 and products not covered by money in the child's account.

22 (d) A payment under Subsection (a) may not be financed using
23 federal money or money from the available school fund or
24 instructional materials fund.

25 (e) Payments received under this subchapter do not
26 constitute taxable income to a parent of a child participating in
27 the program, unless otherwise provided by federal law.

1 (f) On dates consistent with the quarterly application
2 deadlines established under Section 29.356(a), the agency shall
3 submit to the comptroller the data necessary to calculate the
4 amount specified under Subsection (a).

5 Sec. 29.362. ADMINISTRATION OF ACCOUNTS. (a) On receipt of
6 money distributed by the comptroller for purposes of making
7 payments to program participants, the certified educational
8 assistance organization shall make quarterly payments to the
9 account of each child participating in the program in equal amounts
10 on or before the first day of July, October, January, and April.

11 (b) Each year, the comptroller may deduct from the total
12 amount of money appropriated for purposes of this subchapter an
13 amount, not to exceed three percent of that total amount, to cover
14 the comptroller's cost of administering the program.

15 (c) Not later than the first day of the month preceding the
16 start of each quarter, the certified educational assistance
17 organization shall submit to the comptroller in the form prescribed
18 by comptroller rule an estimate of the organization's costs of
19 administering the program for that quarter.

20 (d) Each quarter, the comptroller shall disburse from money
21 appropriated for the program to the certified educational
22 assistance organization the amount necessary to cover the
23 organization's costs of administering the program for that quarter.
24 The total amount disbursed to the certified educational assistance
25 organization under this subsection for a state fiscal year may not
26 exceed five percent of the amount distributed under the program for
27 that fiscal year.

1 (e) On or before the first day of October and February, the
2 certified educational assistance organization shall:

3 (1) verify with the agency that each child
4 participating in the program is not enrolled in a public school,
5 including an open-enrollment charter school, in a manner in which
6 the child is counted toward the school's average daily attendance
7 for purposes of the allocation of state funding under the
8 foundation school program; and

9 (2) notify the comptroller if the organization
10 determines that a child participating in the program is enrolled in
11 a public school, including an open-enrollment charter school, in a
12 manner in which the child is counted toward the school's average
13 daily attendance for purposes of the allocation of state funding
14 under the foundation school program.

15 (f) The comptroller by rule shall establish a process by
16 which a program participant may authorize the comptroller or the
17 certified educational assistance organization to make a payment
18 directly from the participant's account to a preapproved education
19 service provider or vendor of educational products for an expense
20 allowed under Section 29.359.

21 (g) On the date on which a child who participated in the
22 program is no longer eligible to participate in the program under
23 Section 29.355 and payments for any education-related expenses
24 allowed under Section 29.359 from the child's account have been
25 completed, the child's account shall be closed and any remaining
26 money returned to the comptroller for deposit in the program fund.

27 (h) Each quarter, any interest or other earnings

1 attributable to money held by the certified educational assistance
2 organization for purposes of the program shall be remitted to the
3 comptroller for deposit in the program fund.

4 Sec. 29.363. AUDITING. (a) The comptroller shall contract
5 with a private entity to audit accounts and student eligibility
6 data not less than once per year to ensure compliance with
7 applicable law and program requirements. The audit must include a
8 review of:

9 (1) the certified educational assistance
10 organization's internal controls over program transactions; and

11 (2) compliance by:

12 (A) program participants with the requirements
13 of Section 29.357; and

14 (B) the certified educational assistance
15 organization with the requirements of Section 29.354.

16 (b) In conducting an audit, the private entity may require a
17 program participant or the certified educational assistance
18 organization to provide information and documentation regarding
19 any transaction occurring under the program.

20 (c) The private entity shall report to the comptroller any
21 violation of this subchapter or other relevant law, including any
22 transactions the entity determines to be unusual or suspicious,
23 found by the entity during an audit conducted under this section.

24 The comptroller shall report the violation or transaction to:

25 (1) the certified educational assistance
26 organization;

27 (2) the education service provider or vendor of

1 educational products, as applicable; and

2 (3) the parent of each child participating in the
3 program who is affected by the violation or transaction.

4 Sec. 29.364. SUSPENSION OF ACCOUNT. (a) The comptroller
5 shall suspend the account of a program participant who fails to
6 remain in good standing by complying with applicable law or a
7 requirement of the program.

8 (b) On suspension of an account under Subsection (a), the
9 comptroller shall notify the program participant in writing that
10 the account has been suspended and that no additional payments may
11 be made from the account. The notification must specify the grounds
12 for the suspension and state that the participant has 30 business
13 days to respond and take any corrective action required by the
14 comptroller.

15 (c) On the expiration of the 30-day period under Subsection
16 (b), the comptroller shall:

17 (1) order closure of the suspended account;

18 (2) order temporary reinstatement of the account,
19 conditioned on the performance of a specified action by the program
20 participant; or

21 (3) order full reinstatement of the account.

22 (d) The comptroller may recover money distributed under the
23 program that was used for expenses not allowed under Section 29.359
24 or for a child who was not eligible to participate in the program at
25 the time of the expenditure. The money may be recovered from the
26 program participant or the entity that received the money in
27 accordance with Subtitles A and B, Title 2, Tax Code, or as provided

1 by other law if the program participant's account is suspended or
2 closed under this section. The comptroller shall deposit money
3 recovered under this subsection to the credit of the program fund.

4 Sec. 29.365. TUITION AND FEES; REFUND PROHIBITED. (a) An
5 education service provider or vendor of educational products may
6 not charge a child participating in the program an amount greater
7 than the standard amount charged for that service or product by the
8 provider or vendor.

9 (b) An education service provider or vendor of educational
10 products receiving money distributed under the program may not in
11 any manner rebate, refund, or credit to or share with a program
12 participant, or any person on behalf of a participant, any program
13 money paid or owed by the participant to the provider or vendor.

14 Sec. 29.366. REFERRAL TO DISTRICT ATTORNEY. If the
15 comptroller obtains evidence of fraudulent use of an account or
16 money distributed under the program by the certified educational
17 assistance organization or a program participant, the comptroller
18 shall notify the appropriate local county or district attorney with
19 jurisdiction over the principal place of business of the certified
20 educational assistance organization or the residence of the program
21 participant, as applicable.

22 Sec. 29.367. SPECIAL EDUCATION NOTICE. (a) The certified
23 educational assistance organization shall post on the
24 organization's Internet website and provide to each parent who
25 submits an application for the program a notice that:

26 (1) states that a private school is not subject to
27 federal and state laws regarding the provision of educational

1 services to a child with a disability in the same manner as a public
2 school; and

3 (2) provides information regarding rights to which a
4 child with a disability is entitled under federal and state law if
5 the child attends a public school, including:

6 (A) rights provided under the Individuals with
7 Disabilities Education Act (20 U.S.C. Section 1400 et seq.); and

8 (B) rights provided under Subchapter A.

9 (b) A private school in which a child with a disability who
10 is a program participant enrolls shall provide to the child's
11 parent a copy of the notice required under Subsection (a).

12 Sec. 29.368. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR
13 AUTONOMY. (a) An education service provider or vendor of
14 educational products that receives money distributed under the
15 program is not a recipient of federal financial assistance and may
16 not be considered to be an agent of state government on the basis of
17 receiving that money.

18 (b) A rule adopted or other governmental action taken
19 related to the program may not impose requirements that are
20 contrary to or limit the religious or institutional values or
21 practices of an education service provider, vendor of educational
22 products, or program participant, including by limiting the ability
23 of the provider, vendor, or participant, as applicable, to:

24 (1) determine the methods of instruction or curriculum
25 used to educate students;

26 (2) determine admissions and enrollment practices,
27 policies, and standards;

1 (3) modify or refuse to modify the provider's,
2 vendor's, or participant's religious or institutional values or
3 practices, including operations, conduct, policies, standards,
4 assessments, or employment practices that are based on the
5 provider's, vendor's, or participant's religious or institutional
6 values or practices; or

7 (4) exercise the provider's, vendor's, or
8 participant's religious or institutional practices as determined
9 by the provider, vendor, or participant.

10 Sec. 29.369. STUDENT RECORDS AND INFORMATION. (a) On
11 request by the parent of a child participating or seeking to
12 participate in the program, the school district or open-enrollment
13 charter school that the child would otherwise attend shall provide
14 a copy of the child's school records possessed by the district or
15 school, if any, to the child's parent or, if applicable, the private
16 school the child attends.

17 (b) As necessary to verify a child's eligibility for the
18 program, the agency, a school district, or an open-enrollment
19 charter school shall provide to the certified educational
20 assistance organization any information available to the agency,
21 district, or school requested by the organization regarding a child
22 who participates or seeks to participate in the program, including
23 information regarding:

24 (1) the child's public school enrollment status; and

25 (2) whether the child:

26 (A) is a child with a disability;

27 (B) is covered by Section 504, Rehabilitation Act

1 of 1973 (29 U.S.C. Section 794); or

2 (C) can be counted toward a public school's
3 average daily attendance for purposes of the allocation of funding
4 under the foundation school program.

5 (c) The certified educational assistance organization may
6 not retain information provided under Subsection (b) beyond the
7 period necessary to determine a child's eligibility to participate
8 in the program.

9 (d) The certified educational assistance organization or an
10 education service provider or vendor of educational products that
11 obtains information regarding a child participating in the program:

12 (1) shall comply with state and federal law regarding
13 the confidentiality of student educational information; and

14 (2) may not sell or otherwise distribute information
15 regarding a child participating in the program.

16 Sec. 29.370. GIFTS, GRANTS, AND DONATIONS. The comptroller
17 and the certified educational assistance organization may solicit
18 and accept gifts, grants, and donations from any public or private
19 source for any expenses related to the administration of the
20 program, including establishing the program and contracting for the
21 report required under Section 29.372.

22 Sec. 29.371. ADMINISTRATION OF STATE ASSESSMENT
23 INSTRUMENTS. (a) The agency shall ensure that each child
24 participating in the program is annually administered each
25 assessment instrument required to be administered to a public
26 school student at the child's grade and course level under Section
27 39.023(a) or (c), subject to any applicable exemptions or

1 accommodations provided under Subchapter B, Chapter 39.

2 (b) For purposes of the annual report required under Section
3 29.372, the agency shall provide to the comptroller the results of
4 the assessment instruments administered under this section, in
5 aggregate and disaggregated by race, ethnicity, socioeconomic
6 status, and status as a child with a disability. A child's results
7 on an assessment instrument administered under this section are
8 confidential, are not subject to disclosure under Chapter 552,
9 Government Code, and may only be shared as necessary to develop the
10 annual report required under Section 29.372 of this subchapter. In
11 providing the results of the assessment instruments, the agency
12 shall ensure compliance with state and federal law regarding the
13 confidentiality of student educational information, including the
14 Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
15 Section 1232g).

16 (c) The agency may require a school district,
17 open-enrollment charter school, or regional education service
18 center to administer assessment instruments under this section in
19 accordance with agency rule.

20 (d) If authorized by the agency, a private school may, but
21 is not required to, administer assessment instruments under this
22 section in accordance with agency rule.

23 Sec. 29.372. ANNUAL REPORT. (a) The comptroller shall
24 require that the certified educational assistance organization
25 compile program data and produce an annual longitudinal report
26 regarding:

27 (1) the number of program applications received,

1 accepted, and waitlisted, disaggregated by age;
2 (2) program participant satisfaction;
3 (3) the results of assessment instruments provided in
4 accordance with Section 29.371;
5 (4) the effect of the program on public and private
6 school capacity, availability, and quality;
7 (5) the amount of cost savings accruing to the state as
8 a result of the program;
9 (6) in a report submitted in an even-numbered year
10 only, an estimate of the total amount of funding required for the
11 program for the next state fiscal biennium;
12 (7) the amount of gifts, grants, and donations
13 received under Section 29.370; and
14 (8) based on surveys of former program participants or
15 other sources available to the organization, the number and
16 percentage of children participating in the program who, within one
17 year after graduating from high school, are:
18 (A) college ready, as indicated by earning a
19 minimum of 12 non-remedial semester credit hours or the equivalent
20 or an associate degree from a postsecondary educational
21 institution;
22 (B) career ready, as indicated by:
23 (i) earning a credential of value included
24 in the library of credentials established under Section 2308A.007,
25 Government Code; or
26 (ii) employment at or above the median wage
27 in the child's region; or

1 (C) military ready, as indicated by achieving a
2 passing score set by the applicable military branch on the Armed
3 Services Vocational Aptitude Battery and enlisting in the armed
4 forces of the United States or the Texas National Guard.

5 (b) In producing the report, the certified educational
6 assistance organization shall:

7 (1) use appropriate analytical and behavioral science
8 methodologies to ensure public confidence in the report; and

9 (2) comply with the requirements regarding the
10 confidentiality of student educational information under the
11 Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
12 Section 1232g).

13 (c) The report must cover a period of not less than five
14 years and include, subject to Subsection (b)(2), the data analyzed
15 and methodology used.

16 (d) The comptroller and the certified educational
17 assistance organization shall post the report on the comptroller's
18 and organization's respective Internet websites.

19 Sec. 29.373. RULES; PROCEDURES. The comptroller shall
20 adopt rules and procedures as necessary to implement, administer,
21 and enforce this subchapter.

22 Sec. 29.374. APPEAL; JUDICIAL REVIEW. (a) A program
23 participant may appeal to the comptroller an administrative
24 decision made by the comptroller or the certified educational
25 assistance organization under this subchapter, including a
26 decision regarding eligibility, allowable expenses, or the
27 participant's removal from the program.

1 (b) A program participant, education service provider, or
2 vendor of educational products who is adversely affected or
3 aggrieved by a decision made by the comptroller or the certified
4 educational assistance organization under this subchapter may file
5 a suit challenging the decision in a district court in the county in
6 which the program participant resides or the provider or vendor has
7 its principal place of business, as applicable.

8 Sec. 29.375. RIGHT TO INTERVENE IN CIVIL ACTION. (a) A
9 program participant, education service provider, or vendor of
10 educational products may intervene in any civil action challenging
11 the constitutionality of the program.

12 (b) A court in which a civil action described by Subsection
13 (a) is filed may require that all program participants, education
14 service providers, and vendors of educational products wishing to
15 intervene in the action file a joint brief. A program participant,
16 education service provider, or vendor of educational products may
17 not be required to join a brief filed on behalf of the state or a
18 state agency.

19 SECTION 3.004. Section 22.092(d), Education Code, is
20 amended to read as follows:

21 (d) The agency shall provide equivalent access to the
22 registry maintained under this section to:

- 23 (1) private schools;
- 24 (2) public schools; ~~and~~
- 25 (3) nonprofit teacher organizations approved by the
26 commissioner for the purpose of participating in the tutoring
27 program established under Section 33.913; and

1 (4) the comptroller for the purpose of preapproving
2 education service providers and vendors of educational products
3 under Section 29.358 for participation in the program established
4 under Subchapter J, Chapter 29.

5 SECTION 3.005. Section 411.109, Government Code, is amended
6 by adding Subsection (c) to read as follows:

7 (c) The comptroller is entitled to obtain criminal history
8 record information maintained by the department about a person who
9 is a private tutor, a therapist, or an employee of a teaching
10 service or school who intends to provide educational services to a
11 child participating in the program established under Subchapter J,
12 Chapter 29, Education Code, and is seeking approval to receive
13 money distributed under that program.

14 SECTION 3.006. Subchapter J, Chapter 29, Education Code, as
15 added by this article, applies beginning with the 2024-2025 school
16 year.

17 SECTION 3.007. (a) Not later than February 15, 2024, the
18 comptroller of public accounts shall adopt rules as provided by
19 Section 29.373, Education Code, as added by this article.

20 (b) The comptroller of public accounts may identify rules
21 required by the passage of Subchapter J, Chapter 29, Education
22 Code, as added by this article, that must be adopted on an emergency
23 basis for purposes of the 2024-2025 school year and may use the
24 procedures established under Section 2001.034, Government Code,
25 for adopting those rules. The comptroller of public accounts is not
26 required to make the finding described by Section 2001.034(a),
27 Government Code, to adopt emergency rules under this subsection.

1 (c) The comptroller of public accounts may pursue expedited
2 contracting for purposes of implementing Subchapter J, Chapter 29,
3 Education Code, as added by this article, for the 2024-2025 school
4 year.

5 SECTION 3.008. (a) The constitutionality and other
6 validity under the state or federal constitution of all or any part
7 of Subchapter J, Chapter 29, Education Code, as added by this Act,
8 may be determined in an action for declaratory judgment under
9 Chapter 37, Civil Practice and Remedies Code, in a district court in
10 the county in which the violation is alleged to have occurred or
11 where the plaintiff resides or has its principal place of business.

12 (b) An order, however characterized, of a trial court
13 granting or denying a temporary or otherwise interlocutory
14 injunction or a permanent injunction on the grounds of the
15 constitutionality or unconstitutionality, or other validity or
16 invalidity, under the state or federal constitution of all or any
17 part of Subchapter J, Chapter 29, Education Code, as added by this
18 Act, may be reviewed only by direct appeal to the Texas Supreme
19 Court filed not later than the 15th day after the date on which the
20 order was entered. The Texas Supreme Court shall give precedence to
21 appeals under this section over other matters.

22 (c) The direct appeal is an accelerated appeal.

23 (d) This section exercises the authority granted by Section
24 3-b, Article V, Texas Constitution.

25 (e) The filing of a direct appeal under this section will
26 automatically stay any temporary or otherwise interlocutory
27 injunction or permanent injunction granted in accordance with this

1 section pending final determination by the Texas Supreme Court,
2 unless the supreme court makes specific findings that the applicant
3 seeking such injunctive relief has pleaded and proved that:

4 (1) the applicant has a probable right to the relief it
5 seeks on final hearing;

6 (2) the applicant will suffer a probable injury that
7 is imminent and irreparable, and that the applicant has no other
8 adequate legal remedy; and

9 (3) maintaining the injunction is in the public
10 interest.

11 (f) An appeal under this section, including an
12 interlocutory, accelerated, or direct appeal, is governed, as
13 applicable, by the Texas Rules of Appellate Procedure, including
14 Rules 25.1(d)(6), 28.1, 32.1(g), 37.3(a)(1), 38.6(a) and (b),
15 40.1(b), and 49.4.

16 (g) This section does not authorize an award of attorney's
17 fees against this state, and Section 37.009, Civil Practice and
18 Remedies Code, does not apply to an action filed under this section.

19 SECTION 3.009. It is the intent of the legislature that
20 every provision, section, subsection, sentence, clause, phrase, or
21 word in this article, and every application of the provisions in
22 this article to each person or entity, is severable from each other.
23 If any application of any provision in this article to any person,
24 group of persons, or circumstances is found by a court to be invalid
25 for any reason, the remaining applications of that provision to all
26 other persons and circumstances shall be severed and may not be
27 affected.

