

## **BILL ANALYSIS**

Senate Research Center

H.B. 500  
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Education  
5/6/2011  
Engrossed

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

Texas will begin a new student assessment program during the 2011-2012 school year named the State of Texas Assessments of Academic Readiness (STAAR). Legislation enacted by the 81st Legislature provided a transition period for schools moving from the existing Texas Assessment of Knowledge and Skills (TAKS) program to STAAR. H.B. 500 provides additional provisions and flexibility options for implementing STAAR.

H.B. 500 amends current law relating to state-adopted assessment instruments administered to public school students.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education in SECTION 4 (Section 39.0236, Education Code) and SECTION 5 (Section 39.025, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 28.021(c), Education Code, to require a school district, in determining promotion under Subsection (a), to consider certain information, including the student's score on an assessment instrument administered under Section 39.023(a), (b) (requiring the Texas Education Agency (TEA) to develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program under Subchapter A, Chapter 29, for whom an assessment instrument adopted under Subsection (a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee) or (1) (requiring the State Board of Education (SBOE) to adopt rules for the administration of the assessment instruments adopted under Subsection (a) in Spanish to students in grades three through five who are of limited English proficiency, as defined by Section 29.052, whose primary language is Spanish, and who are not otherwise exempt from the administration of an assessment instrument under Section 39.027(a)(1) or (2)), to the extent applicable.

SECTION 2. Amends Section 28.0211, Education Code, by adding Subsections (o) and (p), as follows:

(o) Provides that this section does not require the administration of a fifth or eighth grade assessment instrument in a subject under Section 39.023(a) to a student enrolled in the fifth or eighth grade, as applicable, if the student:

(1) is enrolled in a course in the subject for which the student will receive high school academic credit; and

(2) will be administered an end-of-course assessment instrument adopted under Section 39.023(c) for the course.

(p) Prohibits a student described by Subsection (o), notwithstanding any other provision of this section, from being denied promotion on the basis of failure to perform

satisfactorily on an assessment instrument not required to be administered to the student in accordance with that subsection.

SECTION 3. Amends Section 39.023, Education Code, by amending Subsections (a) and (c) and adding Subsection (a-2), as follows:

(a) Requires TEA to adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science. Requires all students, except as provided by Subsection (a-2), other than, rather than except, students assessed under Subsection (b) or (l) or exempted under Section 39.027 (Exemption), to be assessed in certain subjects.

(a-2) Provides that a student is not required to be assessed in a subject otherwise assessed at the student's grade level under Subsection (a) if the student:

(1) is enrolled in a course in the subject for which the student will receive high school academic credit; and

(2) will be administered an end-of-course assessment instrument adopted under Subsection (c) for the course.

(c) Requires TEA to also adopt end-of-course assessment instruments for secondary-level courses in Algebra I, Algebra II, geometry, biology, chemistry, physics, English I, English II, English III, world geography, world history, and United States history. Requires that the Algebra I, Algebra II, and geometry end-of-course assessment instruments be administered with the aid of technology. Requires a school district to comply with SBOE rules regarding administration of the assessment instruments listed in this subsection. Requires a district to adopt a policy addressing whether, rather than a policy that requires, a student's performance on an end-of-course assessment instrument for a course listed in this subsection in which the student is enrolled will be used by the district in determining the student's final grade for the course, rather than to account for 15 percent of the student's final grade for the course and, if so, the manner in which the student's performance on an end-of-course assessment will be used in determining the student's final grade for the course. Requires a district, if a student retakes an end-of-course assessment instrument for a course listed in this subsection, as provided by Section 39.025 (Secondary-Level Performance Required), to act in accordance with district policy concerning whether to use and, if so, the manner in which to use the student's performance on the subsequent administration or administrations of the assessment instrument in determining the student's final grade for the course, rather than provides that, if a student retakes an end-of-course assessment instrument for a course listed in this subsection, as provided by Section 39.025, a school district is not required to use the student's performance on the subsequent administration or administrations of the assessment instrument to determine the student's final grade for the course. Requires the student's admission, review, and dismissal committee, if a student is in a special education program under Subchapter A (Special Education Program), Chapter 29 (Educational Programs), to determine whether any allowable modification is necessary in administering to the student an assessment instrument required under this subsection. Requires SBOE to administer the assessment instruments. Requires SBOE to adopt a schedule for the administration of end-of-course assessment instruments that complies with the requirements of Subsection (c-3) (requiring SBOE to require, in adopting a schedule for the administration of assessment instruments under this section, that certain assessments to be administered at certain times).

SECTION 4. Amends Subchapter B, Chapter 39, Education Code, by adding Section 39.0236, as follows:

Sec. 39.0236. REDUCED ASSESSMENT REQUIREMENTS PILOT PROGRAM. (a) Defines, in this section, "pilot program."

(b) Requires the commissioner of education (commissioner) by rule to establish a pilot program in which certain students in grades three through eight at a participating campus have reduced assessment requirements, as provided by this section.

(c) Authorizes a campus to apply to the commissioner to participate in the pilot program.

(d) Requires the commissioner to select at least 20 campuses to participate in the pilot program. Requires the commissioner, in selecting campuses for participation in the pilot program, to ensure that, to the greatest extent practicable, the diverse demographic, geographic, socioeconomic, and academic characteristics found in this state are represented and that elementary and middle or junior high schools are represented.

(e) Requires a student attending a campus participating in the pilot program, other than a student administered assessment instruments under Section 39.023(b) or (l) or granted an exemption from administration of an assessment instrument under Section 39.027, notwithstanding Section 39.023 (Adoption and Administration of Instruments), to be assessed using assessment instruments adopted or developed under Section 39.023(a) in:

(1) mathematics:

(A) in grades three and five without the aid of technology; and

(B) in grade eight with the aid of technology on any assessment instrument that includes algebra;

(2) reading, in grades three, five, and eight;

(3) writing, including spelling and grammar, in grades four and seven;

(4) social studies, in grade eight; and

(5) science, in grades five and eight.

(f) Requires a student to be assessed in grade four in mathematics or reading using an assessment instrument administered under Subsection (e) in grade three if, on the final assessment instrument in that subject administered to the student in grade three during the preceding school year, the student did not achieve a score determined through the analysis of previous years' testing data to predict with a high level of statistical confidence that a student will pass the following year.

(g) Requires a student to be assessed in grade six in mathematics or reading using an assessment instrument administered under Subsection (e) in grade five if, on the final assessment instrument in that subject administered to the student in grade five during the preceding school year, the student did not achieve a score determined through the analysis of previous years' testing data to predict with a high level of statistical confidence that a student will pass the following year.

(h) Requires a student to be assessed in grade seven in mathematics or reading using an assessment instrument administered under Subsection (g) in grade six if, on the final assessment instrument in that subject administered to the student in grade six during the preceding school year, the student did not achieve a score determined through the analysis of previous years' testing data to predict with a high level of statistical confidence that a student will pass the following year.

(i) Authorizes a participating campus, for its own use in determining whether students are performing at a satisfactory level, to administer to a student at the

appropriate grade level, other than a student required to be assessed under this section, an assessment instrument. Requires TEA, at the request of a participating campus, to provide, allow for the administration of, and score each assessment instrument administered under this subsection in the same manner and at the same cost as for assessment instruments required to be administered under the applicable subsection. Prohibits the results of an assessment instrument administered under this subsection from being included as an indicator of student achievement under Section 39.054 (Methods and Standards for Evaluating Performance) or any other provision.

(j) Requires the commissioner, if there is a conflict between this section and federal law as a result of forgoing under this section certain administration of assessment instruments to students who have recently performed successfully on assessment instruments assessing the same subject, to seek a waiver from the application of conflicting federal law for a campus participating in the pilot program.

(k) Requires the commissioner to adopt rules as necessary to administer this section.

(l) Requires the commissioner to conduct a study to determine whether the pilot program has been successful. Requires that the study compare the achievements in mathematics and reading of students at participating and nonparticipating campuses in similar geographic areas that have students of similar demographic, socioeconomic, and academic characteristics. Requires that the study evaluate the differences between mathematics and reading performance of students at campuses participating in the pilot program and those in matched nonparticipating campuses. Requires the commissioner, not later than September 1, 2014, to submit the results of the study to the legislature.

(m) Requires the commissioner by rule to establish the pilot program for the 2012-2013 and 2013-2014 school years.

(n) Provides that this section expires December 31, 2014.

SECTION 5. Amends Section 39.025, Education Code, by amending Subsections (a), (a-1), (a-2), (a-3), (b), (b-2), (e), (f), and (g) and adding Subsections (a-4), (a-5), and (e-1), as follows:

(a) Requires the commissioner to adopt rules requiring a student participating in the recommended or advanced high school program to be administered each end-of-course assessment instrument listed in Section 39.023(c) and requiring a student participating in the minimum high school program to be administered an end-of-course assessment instrument listed in Section 39.023(c) only for a course in which the student is enrolled and for which an end-of-course assessment instrument is administered.

Delete existing text providing that a student is required to achieve, in each subject in the foundation curriculum under Section 28.002(a)(1) (requiring each school district that offers kindergarten through grade 12 offer a foundation curriculum that includes certain subjects), a cumulative score that is at least equal to the product of the number of end-of-course assessment instruments administered to the student in that subject and a scale score that indicates satisfactory performance, as determined by the commissioner under Section 39.0241(a) (requiring the commissioner to determine the level of performance considered to be satisfactory on the assessment instruments). Deletes existing text requiring a student to achieve a minimum score as determined by the commissioner to be within a reasonable range of the scale score under Section 39.0241(a) on an end-of-course assessment instrument for the score to count towards the student's cumulative score. Deletes existing text providing that, for purposes of this subsection, a student's cumulative score is determined using the student's highest score on each end-of-course assessment instrument administered to the student. Deletes existing text prohibiting a student from receiving a high school diploma until the student has performed

satisfactorily on the end-of-course assessment instruments in the manner provided under this subsection. Deletes existing text providing that this subsection does not require a student to demonstrate readiness to enroll in an institution of higher education.

(a-1) Requires the commissioner by rule to determine a method by which a student's satisfactory performance on an advanced placement test, international baccalaureate examination, an SAT Subject Test, or another assessment instrument determined by the commissioner to be at least as rigorous as an end-of-course assessment instrument adopted under Section 39.023(c) may be used as a factor in determining whether the student satisfies the requirements of Subsection (a) and Subsection (a-2), (a-3), or (a-4), as applicable to the student, rather than the requirements of Subsection (a), including the cumulative score requirement of that subsection. Authorizes the commissioner by rule to a method by which a student's satisfactory performance on a Preliminary Scholastic Assessment Test (PSAT) assessment or a preliminary American College Test (ACT) assessment may be used as a factor in determining whether the student satisfies the requirements of Subsection (a) and Subsection (a-2), (a-3), or (a-4), as applicable to the student.

(a-2) Requires a student, to graduate under the recommended high school program, to achieve a score that meets or exceeds the score determined by the commissioner under Section 39.0241(a) on end-of-course assessment instruments for certain subjects, including English III, Algebra II, biology, chemistry, or physics, and world geography, world history, or United States history, rather than requires a student, in addition to the cumulative score requirements under Subsection (a), to achieve a score that meets or exceeds the score determined by the commissioner under Section 39.0241(a) for English III and Algebra II end-of-course assessment instruments to graduate under the recommended high school program. Makes nonsubstantive changes.

(a-3) Requires a student, to graduate under the advanced high school program to:

(1) achieve a score that meets or exceeds the score determined by the commissioner under Section 39.0241(a-1) (requiring the commissioner of education, in collaboration with the commissioner of higher education, to determine the level of performance necessary to indicate college readiness, as defined by Section 39.024(a)) on end-of-course assessment instruments for the following:

(A) English III; and

(B) Algebra II; and

(2) achieve a score that meets or exceeds the score determined by the commissioner under Section 39.0241(a) on end-of-course assessment instruments for the following:

(A) biology, chemistry, or physics; and

(B) world geography, world history, or United States history.

Deletes existing text requiring a student, in addition to the cumulative score requirement under Subsection (a), to achieve certain scores in certain subjects. Makes nonsubstantive changes.

(a-4) Requires a student, to graduate under the minimum high school program, to achieve a score that meets or exceeds the score determined by the commissioner under Section 39.0241(a) on end-of-course assessment instruments for the following:

(1) English III;

(2) Algebra I;

(3) biology, chemistry, or physics; and

(4) world geography, world history, or United States history.

(a-5) Requires the admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, to determine whether, to receive a high school diploma, the student is required to achieve satisfactory performance on end-of-course assessment instruments.

(b) Authorizes a student who failed to achieve the score requirement under this section, rather than a minimum score under Subsection (a), to retake the assessment instrument. Authorizes a student who fails to perform satisfactorily on an Algebra II or English III end-of-course assessment instrument under the college readiness performance standard, as provided under Section 39.024(b) (requiring TEA and the Texas Higher Education Coordinating Board (THECB) to ensure that the Algebra II and English III end-of-course assessment instruments required under Section 39.023(c) are developed to be capable of, beginning with the 2011-2012 school year, measuring college readiness) to retake the assessment instrument. Provides that a student is not required to retake a course as a condition of retaking an end-of-course assessment instrument. Deletes existing text authorizing any student to retake an end-of-course assessment instrument for any reason.

(b-2) Requires the district, if a school district determines that a student, on completion of grade 11, is unlikely to achieve the score requirement under this section, rather than the cumulative requirements, for one or more end-of-course assessment instruments as necessary, rather than for one or more subjects prescribed by Subsection (a), for receiving a high school diploma, to require the student to enroll in a corresponding content-area college preparatory course for which an end-of-course assessment instrument has been adopted, if available. Requires a student who enrolls in a college preparatory course described by this subsection to be administered an end-of-course assessment instrument for the course, with the end-of-course assessment instrument scored on a scale as determined by the commissioner. Deletes existing text requiring that the scale not exceed 20 percent of the cumulative score requirements required to graduate as determined under Subsection (a). Authorizes a student to use the student's score on the end-of-course assessment instrument for the college preparatory course towards satisfying the score requirement under this section, rather than the cumulative score requirements prescribed by Subsection (a).

(e) Requires the commissioner to establish a required performance level for an assessment instrument adopted under Subsection (d) that is at least as rigorous as the performance level required to be met under Subsection (a-2), (a-3), or (a-4), as applicable to the student, rather than under Subsection (a).

(e-1) Provides that nothing in this section has the effect of prohibiting the administration of an end-of-course assessment instrument listed in Section 39.023(c) to a student enrolled below the high school level who is enrolled in the course for which the assessment instrument is adopted. Requires the commissioner to adopt rules necessary to ensure that the student's performance on the assessment instrument is considered in the same manner for purposes of this section as the performance of a student enrolled at the high school level.

(f) Requires the commissioner by rule to adopt a transition plan to implement the amendments made by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007, replacing general subject assessment instruments administered at the high school level with end-of-course assessment instruments. Requires that the rules provide for the end-of-course assessment instruments adopted under Section 39.023(c) to be administered beginning with students entering the ninth grade during the 2011-2012 school year. Provides that, during the period under which the transition to end-of-course assessment instruments is made:

(1) for students entering a grade above the ninth grade during the 2011-2012 school year and to the extent necessary for purposes of Subdivisions (5) and (6), the commissioner shall retain, administer, and use for purposes of accreditation and other campus and district accountability measures under this chapter the assessment instruments required by Section 39.023(a) or (c), as that section existed before amendment by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007;

(2) a student subject to Subdivision (1) may not receive a high school diploma unless the student has performed satisfactorily on each required assessment instrument administered under Section 39.023(c) as that section existed before amendment by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007;

(3) TEA may defer releasing assessment instrument questions and answer keys as required by Section 39.023(e) (requiring TEA, under rules adopted by SBOE, every third year, to release the questions and answer keys to each assessment instrument administered under Subsection (a), (b), (c), (d), or (l), excluding any assessment instrument administered to a student for the purpose of retaking the assessment instrument, after the last time the instrument is administered for that school year) to the extent necessary to develop additional assessment instruments;

(4) a student entering ninth grade during the 2011-2012 or 2012-2013 school year shall be administered each end-of-course assessment instrument listed in Section 39.023(c) for a course in which the student is enrolled and for which an end-of-course assessment instrument is administered;

(5) a student subject to Subdivision (4) may not receive a high school diploma under the recommended high school program unless the student:

(A) achieves a score that meets or exceeds the score determined by the commissioner under Section 39.0241(a) on end-of-course assessment instruments for the following:

- (i) English III;
- (ii) Algebra II;
- (iii) biology, chemistry, or physics; and
- (iv) world geography, world history, or United States history; or

(B) has performed satisfactorily on each required assessment instrument administered under Section 39.023(c), as that section existed before amendment by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007;

(6) a student subject to Subdivision (4) may not receive a high school diploma under the minimum high school program unless the student:

(A) achieves a score that meets or exceeds the score determined by the commissioner under Section 39.0241(a) on end-of-course assessment instruments for the following:

- (i) English III;
- (ii) Algebra I;
- (iii) biology, chemistry, or physics; and

(iv) world geography, world history, or United States history; or

(B) has performed satisfactorily on each required assessment instrument administered under Section 39.023(c), as that section existed before amendment by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007; and

(7) a student entering ninth grade during the 2013-2014 school year or a later school year may not receive a high school diploma unless the student has satisfied the requirements of Subsection (a) and Subsection (a-2), (a-3), or (a-4), as applicable to the student.

(g) Requires that rules adopted under Subsection (f) require that each student who will be subject to the requirements of Subsection (a), (a-2), (a-3), (a-4), or (f)(4) is entitled to notice of the specific requirements applicable to the student. Requires that notice under this subsection be provided not later than the date the student enters the eighth grade. Requires that notice under this subsection, for a student who entered eighth grade in the 2010-2011 school year, also be provided not later than the date the student enters the ninth grade to inform the student of modifications in the requirements applicable to the student. Provides that Subsection (f) and this subsection expire September 1, 2017, rather than September 1, 2015.

SECTION 6. Amends Section 39.034, Education Code, by adding Subsection (e), as follows:

(e) Authorizes TEA to use a projection measure only in determining, for purposes of this section, an expected level of annual improvement in student achievement. Prohibits TEA from using a projection measure as a representation, for purposes of this section, of an actual level of annual improvement in student achievement.

SECTION 7. Amends Section 39.053, Education Code, by adding Subsection (d-1), to provide that, in aggregating results of assessment instruments across grade levels by subject in accordance with Subsection (c)(1), the performance of a student enrolled below the high school level on an assessment instrument required under Section 39.023(c) is included with results relating to other students enrolled at the same grade level.

SECTION 8. Amends Section 39.203, Education Code, by adding Subsection (d), to authorize the commissioner, in addition to the distinction designations otherwise described by this section, to award a distinction designation to a campus with a significant number of students below grade nine who perform satisfactorily on an end-of-course assessment instrument administered under Section 39.023(c).

SECTION 9. (a) Provides that a school district policy adopted under Section 39.023(c), Education Code, as amended by this Act, applies beginning with the 2011-2012 school year.

(b) Provides that Section 39.025(b), Education Code, as amended by this Act, applies beginning with the 2011-2012 school year.

SECTION 10. Effective date: upon passage or September 1, 2011.