

AN ACT

1  
2 relating to the administration of end-of-course and other  
3 assessment instruments to certain public school students enrolled  
4 below the high school level.

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

6 SECTION 1. Section 28.021(c), Education Code, is amended to  
7 read as follows:

8 (c) In determining promotion under Subsection (a), a school  
9 district shall consider:

- 10 (1) the recommendation of the student's teacher;
- 11 (2) the student's grade in each subject or course;
- 12 (3) the student's score on an assessment instrument  
13 administered under Section 39.023(a), (b), or (l), to the extent  
14 applicable; and
- 15 (4) any other necessary academic information, as  
16 determined by the district.

17 SECTION 2. Section 28.0211, Education Code, is amended by  
18 adding Subsections (o) and (p) to read as follows:

19 (o) This section does not require the administration of a  
20 fifth or eighth grade assessment instrument in a subject under  
21 Section 39.023(a) to a student enrolled in the fifth or eighth  
22 grade, as applicable, if the student:

- 23 (1) is enrolled in a course in the subject intended for  
24 students above the student's grade level and will be administered

1 an assessment instrument adopted or developed under Section  
2 39.023(a) that aligns with the curriculum for the course in which  
3 the student is enrolled; or

4 (2) is enrolled in a course in the subject for which  
5 the student will receive high school academic credit and will be  
6 administered an end-of-course assessment instrument adopted under  
7 Section 39.023(c) for the course.

8 (p) Notwithstanding any other provision of this section, a  
9 student described by Subsection (o) may not be denied promotion on  
10 the basis of failure to perform satisfactorily on an assessment  
11 instrument not required to be administered to the student in  
12 accordance with that subsection.

13 SECTION 3. Section 39.023, Education Code, is amended by  
14 amending Subsection (a) and adding Subsection (a-2) to read as  
15 follows:

16 (a) The agency shall adopt or develop appropriate  
17 criterion-referenced assessment instruments designed to assess  
18 essential knowledge and skills in reading, writing, mathematics,  
19 social studies, and science. Except as provided by Subsection  
20 (a-2), all [All] students, other than [except] students assessed  
21 under Subsection (b) or (1) or exempted under Section 39.027, shall  
22 be assessed in:

23 (1) mathematics, annually in grades three through  
24 seven without the aid of technology and in grade eight with the aid  
25 of technology on any assessment instrument that includes algebra;

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

27 (3) writing, including spelling and grammar, in grades

1 four and seven;

2 (4) social studies, in grade eight;

3 (5) science, in grades five and eight; and

4 (6) any other subject and grade required by federal  
5 law.

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

9 (1) is enrolled in a course in the subject intended for  
10 students above the student's grade level and will be administered  
11 an assessment instrument adopted or developed under Subsection (a)  
12 that aligns with the curriculum for the course in which the student  
13 is enrolled; or

14 (2) is enrolled in a course in the subject for which  
15 the student will receive high school academic credit and will be  
16 administered an end-of-course assessment instrument adopted under  
17 Subsection (c) for the course.

18 SECTION 4. Section 39.025, Education Code, is amended by  
19 adding Subsection (e-1) to read as follows:

20 (e-1) Nothing in this section has the effect of prohibiting  
21 the administration of an end-of-course assessment instrument  
22 listed in Section 39.023(c) to a student enrolled below the high  
23 school level who is enrolled in the course for which the assessment  
24 instrument is adopted. The commissioner shall adopt rules  
25 necessary to ensure that the student's performance on the  
26 assessment instrument is considered in the same manner for purposes  
27 of this section as the performance of a student enrolled at the high

1 school level.

2 SECTION 5. Section 39.053, Education Code, is amended by  
3 adding Subsection (d-1) to read as follows:

4 (d-1) In aggregating results of assessment instruments  
5 across grade levels by subject in accordance with Subsection  
6 (c)(1), the performance of a student enrolled below the high school  
7 level on an assessment instrument required under Section 39.023(c)  
8 is included with results relating to other students enrolled at the  
9 same grade level.

10 SECTION 6. Section 39.203, Education Code, is amended by  
11 adding Subsection (d) to read as follows:

12 (d) In addition to the distinction designations otherwise  
13 described by this section, the commissioner may award a distinction  
14 designation to a campus with a significant number of students below  
15 grade nine who perform satisfactorily on an end-of-course  
16 assessment instrument administered under Section 39.023(c).

17 SECTION 7. This Act applies beginning with the 2011-2012  
18 school year.

19 SECTION 8. This Act takes effect immediately if it receives  
20 a vote of two-thirds of all the members elected to each house, as  
21 provided by Section 39, Article III, Texas Constitution. If this  
22 Act does not receive the vote necessary for immediate effect, this  
23 Act takes effect September 1, 2011.

David Dewhurst  
President of the Senate

Joe Straus  
Speaker of the House

I certify that H.B. No. 2135 was passed by the House on April 26, 2011, by the following vote: Yeas 148, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2135 on May 23, 2011, by the following vote: Yeas 144, Nays 0, 2 present, not voting.

Robert Haney  
Chief Clerk of the House

I certify that H.B. No. 2135 was passed by the Senate, with amendments, on May 21, 2011, by the following vote: Yeas 31, Nays 0.

Ratsy Spaw  
Secretary of the Senate

APPROVED: 17 JUN '11  
Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE

4:37 PM O'CLOCK

JUN 17 2011

Hope M. Riddle  
Secretary of State