

AN ACT

relating to the essential knowledge and skills of the required public school curriculum and to certain state-adopted or state-developed assessment instruments for public school students.

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

SECTION 1. Section 39.023, Education Code, is amended by adding Subsections (a-3), (a-4), (a-5), (a-6), (b-1), and (b-2) to read as follows:

(a-3) Before an assessment instrument adopted or developed under Subsection (a) may be administered under that subsection, the assessment instrument must, on the basis of empirical evidence, be determined to be valid and reliable by an entity that is independent of the agency and of any other entity that developed the assessment instrument.

(a-4) The agency shall ensure that an assessment instrument adopted or developed under Subsection (a) is designed to primarily assess the essential knowledge and skills identified by the State Board of Education under Section 28.002 of the subject and for the grade level for which the assessment instrument is administered. Only to the extent necessary or helpful for diagnostic or reporting purposes, the assessment instrument may also assess supporting knowledge or skills that are introduced or referenced in the subject and for the grade level for which the assessment instrument is administered but that are identified as essential knowledge or

1 skills primarily of a different subject or for a different grade  
2 level.

3 (a-5) An assessment instrument adopted or developed under  
4 Subsection (a) must be designed so that:

5 (1) if administered to students in grades three  
6 through five, 85 percent of students will be able to complete the  
7 assessment instrument within 120 minutes; and

8 (2) if administered to students in grades six through  
9 eight, 85 percent of students will be able to complete the  
10 assessment instrument within 180 minutes.

11 (a-6) The amount of time allowed for administration of an  
12 assessment instrument adopted or developed under Subsection (a) may  
13 not exceed eight hours, and the administration may occur on only one  
14 day.

15 (b-1) The agency, in conjunction with appropriate  
16 interested persons, shall redevelop assessment instruments adopted  
17 or developed under Subsection (b) for administration to  
18 significantly cognitively disabled students in a manner consistent  
19 with federal law. An assessment instrument under this subsection  
20 may not require a teacher to prepare tasks or materials for a  
21 student who will be administered such an assessment instrument.

22 (b-2) Assessment instruments redeveloped under Subsection  
23 (b-1) shall be administered beginning not later than the 2015-2016  
24 school year. This subsection expires September 1, 2016.

25 SECTION 2. Subchapter B, Chapter 39, Education Code, is  
26 amended by adding Sections 39.0236 and 39.0237 to read as follows:

27 Sec. 39.0236. STUDY OF ESSENTIAL KNOWLEDGE AND SKILLS AND

1 ASSESSMENT INSTRUMENTS. (a) The agency shall conduct a study  
2 regarding the essential knowledge and skills of the required  
3 curriculum identified by the State Board of Education under Section  
4 28.002 and assessment instruments administered under Section  
5 39.023.

6 (b) The study must evaluate:

7 (1) the number and scope of the essential knowledge  
8 and skills of each subject of the required curriculum under Section  
9 28.002, with each essential knowledge or skill identified as a  
10 readiness or supporting standard, and whether the number or scope  
11 should be limited;

12 (2) the number and subjects of assessment instruments  
13 under Section 39.023 that are required to be administered to  
14 students in grades three through eight; and

15 (3) how assessment instruments described by  
16 Subdivision (2) assess standards essential for student success and  
17 whether the assessment instruments should also assess supporting  
18 standards, including analysis of:

19 (A) the portion of the essential knowledge and  
20 skills capable of being accurately assessed;

21 (B) the appropriate skills that can be assessed  
22 within the testing parameters under current law; and

23 (C) how current standards compare to those  
24 parameters.

25 (c) Not later than March 1, 2014, the agency shall prepare  
26 and submit to the State Board of Education a report concerning the  
27 results of the study under Subsection (b). Not later than May 1,

1 2014, the State Board of Education shall review the study and shall  
2 submit to the governor, each member of the legislature, and the  
3 advisory committee established under Section 39.0237 the agency's  
4 report and board recommendations regarding each issue evaluated  
5 under Subsection (b).

6 (d) This section expires June 1, 2015.

7 Sec. 39.0237. ADVISORY COMMITTEE TO STUDY ESSENTIAL  
8 KNOWLEDGE AND SKILLS AND ASSESSMENT INSTRUMENTS. (a) An advisory  
9 committee shall be established to review the agency study and State  
10 Board of Education recommendations under Section 39.0236. The  
11 committee must be composed of:

12 (1) four members of the senate education committee  
13 appointed by the lieutenant governor and four members of the house  
14 public education committee appointed by the speaker of the house of  
15 representatives;

16 (2) two members of the public appointed by the  
17 lieutenant governor; and

18 (3) two members of the public appointed by the speaker  
19 of the house of representatives.

20 (b) The advisory committee shall review the agency study and  
21 State Board of Education recommendations under Section 39.0236. If  
22 the advisory committee determines that the agency study is  
23 insufficient, the advisory committee may perform an additional  
24 independent study to evaluate the agency study components required  
25 under Section 39.0236(b).

26 (c) Not later than January 1, 2015, the committee shall  
27 prepare and submit to the governor, each member of the legislature,

the commissioner, and the State Board of Education a report that includes, as applicable, the results of the committee's review of the agency study or the results of the committee's independent study and recommendations regarding each issue evaluated under Section 39.0236(b).

(d) Based on the study under Section 39.0236(b) and the advisory committee report under Subsection (c), the State Board of Education shall adopt policies and procedures to limit the number and scope of the essential knowledge and skills of each subject and grade level to correspond with the readiness standards capable of being accurately assessed by applicable assessment instruments.

(e) This section expires June 1, 2015.

SECTION 3. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.0263 to read as follows:

Sec. 39.0263. ADMINISTRATION OF DISTRICT-REQUIRED BENCHMARK ASSESSMENT INSTRUMENTS TO PREPARE STUDENTS FOR STATE-ADMINISTERED ASSESSMENT INSTRUMENTS. (a) In this section, "benchmark assessment instrument" means a district-required assessment instrument designed to prepare students for a corresponding state-administered assessment instrument.

(b) Except as provided by Subsection (c), a school district may not administer to any student more than two benchmark assessment instruments to prepare the student for a corresponding state-administered assessment instrument.

(c) The prohibition prescribed by this section does not apply to the administration of a college preparation assessment instrument, including the PSAT, the ACT-Plan, the SAT, or the ACT,

1 an advanced placement test, an international baccalaureate  
2 examination, or an independent classroom examination designed or  
3 adopted and administered by a classroom teacher.

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

8 SECTION 4. Section 39.0301, Education Code, is amended by  
9 adding Subsection (a-1) to read as follows:

10 (a-1) In establishing procedures for the administration of  
11 assessment instruments under Subsection (a)(1), the commissioner  
12 shall ensure that the procedures are designed to minimize  
13 disruptions to school operations and the classroom environment. In  
14 implementing the procedures established for the administration of  
15 assessment instruments under Subsection (a)(1), a school district  
16 shall minimize disruptions to school operations and the classroom  
17 environment.

18 SECTION 5. Subchapter B, Chapter 39, Education Code, is  
19 amended by adding Section 39.038 to read as follows:

20 Sec. 39.038. AUDITING AND MONITORING PERFORMANCE UNDER  
21 CONTRACTS FOR ASSESSMENT INSTRUMENTS. (a) The agency by rule shall  
22 develop a comprehensive methodology for auditing and monitoring  
23 performance under contracts for services to develop or administer  
24 assessment instruments required by Section 39.023 to verify  
25 compliance with contractual obligations.

26 (b) The agency shall ensure that all new and renewed  
27 contracts described by Subsection (a) include a provision that the

1 agency or a designee of the agency may conduct periodic contract  
2 compliance reviews, without advance notice, to monitor vendor  
3 performance.

4 (c) The agency shall adopt rules to administer this section.

5 SECTION 6. Section 39.053, Education Code, is amended by  
6 adding Subsection (c-1) to read as follows:

7 (c-1) The indicator of student achievement under Subsection  
8 (c)(1) may not include student performance as to supporting  
9 knowledge or skills as described by Section 39.023(a-4).

10 SECTION 7. Section 39.055, Education Code, is amended to  
11 read as follows:

12 Sec. 39.055. STUDENT ORDERED BY A JUVENILE COURT OR STUDENT  
13 IN RESIDENTIAL FACILITY NOT CONSIDERED FOR ACCOUNTABILITY  
14 PURPOSES. Notwithstanding any other provision of this code except  
15 to the extent otherwise provided under Section 39.054(f), for  
16 purposes of determining the performance of a school district, [or]  
17 campus, or open-enrollment charter school under this chapter, a  
18 student ordered by a juvenile court into a residential program or  
19 facility operated by or under contract with the Texas Juvenile  
20 Justice Department [~~Youth Commission, the Texas Juvenile Probation~~  
21 ~~Commission~~], a juvenile board, or any other governmental entity or  
22 any student who is receiving treatment in a residential facility is  
23 not considered to be a student of the school district in which the  
24 program or facility is physically located or of an open-enrollment  
25 charter school, as applicable. The performance of such a student on  
26 an assessment instrument or other student achievement indicator  
27 adopted under Section 39.053 or reporting indicator adopted under

1 Section 39.301 shall be determined, reported, and considered  
2 separately from the performance of students attending a school of  
3 the district in which the program or facility is physically located  
4 or an open-enrollment charter school, as applicable.

5 SECTION 8. This Act applies beginning with the 2013-2014  
6 school year.

7 SECTION 9. The Texas Education Agency is required to  
8 implement Sections 39.023(b-1) and (b-2), Education Code, as added  
9 by this Act, only if the legislature appropriates money  
10 specifically for that purpose. If the legislature does not  
11 appropriate money specifically for that purpose, the agency may,  
12 but is not required to, implement Sections 39.023(b-1) and (b-2),  
13 Education Code, using other appropriations available for that  
14 purpose.

15 SECTION 10. This Act takes effect immediately if it  
16 receives a vote of two-thirds of all the members elected to each  
17 house, as provided by Section 39, Article III, Texas Constitution.  
18 If this Act does not receive the vote necessary for immediate  
19 effect, this Act takes effect September 1, 2013.



H.B. No. 2836

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2836 was passed by the House on April 30, 2013, by the following vote: Yeas 142, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2836 on May 24, 2013, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2836 on May 26, 2013, by the following vote: Yeas 142, Nays 0, 2 present, not voting.

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Chief Clerk of the House

H.B. No. 2836

I certify that H.B. No. 2836 was passed by the Senate, with amendments, on May 21, 2013, by the following vote: Yeas 30, Nays 1; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2836 on May 26, 2013, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor