

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

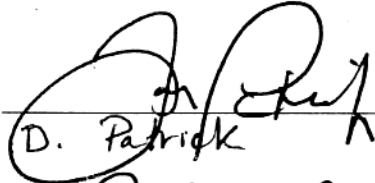
5/25/2013  
Date

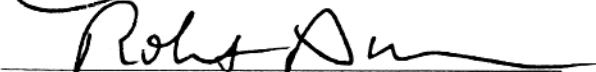
Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 2836 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

  
D. Patrick


  
R. Duncan

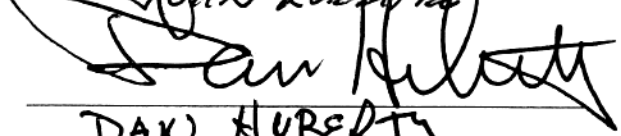
  
K. Seliger

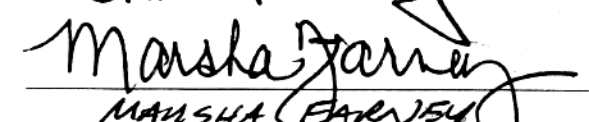
L. Van de Putte

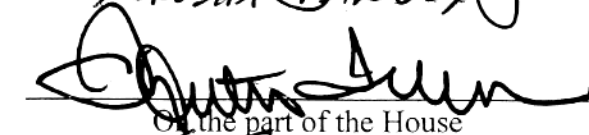
On the part of the Senate  
T. Williams

  
BENNETT RATLIFF - CHAIR

  
JOHN KUENKEL

  
DAN HUBERTY

  
MARSHA FARVEY

  
On the part of the House  
S. Turner

## Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

# CONFERENCE COMMITTEE REPORT

3<sup>rd</sup> Printing

H.B. No. 2836

A BILL TO BE ENTITLED

1 AN ACT <EOH>

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

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

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

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

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

1 level for which the assessment instrument is administered but  
2 that are identified as essential knowledge or skills primarily  
3 of a different subject or for a different grade level.

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

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

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

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

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

24 (b-2) Assessment instruments redeveloped under Subsection  
25 (b-1) shall be administered beginning not later than the 2015-  
26 2016 school year. This subsection expires September 1, 2016.

27 SECTION 2. Subchapter B, Chapter 39, Education Code, is

1 amended by adding Sections 39.0236 and 39.0237 to read as  
2 follows:

3 Sec. 39.0236. STUDY OF ESSENTIAL KNOWLEDGE AND SKILLS AND  
4 ASSESSMENT INSTRUMENTS. (a) The agency shall conduct a study  
5 regarding the essential knowledge and skills of the required  
6 curriculum identified by the State Board of Education under  
7 Section 28.002 and assessment instruments administered under  
8 Section 39.023.

9 (b) The study must evaluate:

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

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

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

22 (A) the portion of the essential knowledge and  
23 skills capable of being accurately assessed;

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

26 (C) how current standards compare to those  
27 parameters.

1       (c) Not later than March 1, 2014, the agency shall prepare  
2 and submit to the State Board of Education a report concerning  
3 the results of the study under Subsection (b). Not later than  
4 May 1, 2014, the State Board of Education shall review the study  
5 and shall submit to the governor, each member of the  
6 legislature, and the advisory committee established under  
7 Section 39.0237 the agency's report and board recommendations  
8 regarding each issue evaluated under Subsection (b).

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

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

15           (1) four members of the senate education committee  
16 appointed by the lieutenant governor and four members of the  
17 house public education committee appointed by the speaker of the  
18 house of representatives;

19           (2) two members of the public appointed by the  
20 lieutenant governor; and

21           (3) two members of the public appointed by the  
22 speaker of the house of representatives.

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

1 components required under Section 39.0236(b).

2 (c) Not later than January 1, 2015, the committee shall  
3 prepare and submit to the governor, each member of the  
4 legislature, the commissioner, and the State Board of Education  
5 a report that includes, as applicable, the results of the  
6 committee's review of the agency study or the results of the  
7 committee's independent study and recommendations regarding each  
8 issue evaluated under Section 39.0236(b).

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

16 (e) This section expires June 1, 2015.

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

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

25 (b) Except as provided by Subsection (c), a school  
26 district may not administer to any student more than two  
27 benchmark assessment instruments to prepare the student for a

1 corresponding state-administered assessment instrument.

2 (c) The prohibition prescribed by this section does not  
3 apply to the administration of a college preparation assessment  
4 instrument, including the PSAT, the ACT-Plan, the SAT, or the  
5 ACT, an advanced placement test, an international baccalaureate  
6 examination, or an independent classroom examination designed or  
7 adopted and administered by a classroom teacher.

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

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

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

18 In implementing the procedures established for the  
19 administration of assessment instruments under Subsection  
20 (a)(1), a school district shall minimize disruptions to school  
21 operations and the classroom environment.

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

24 Sec. 39.038. AUDITING AND MONITORING PERFORMANCE UNDER  
25 CONTRACTS FOR ASSESSMENT INSTRUMENTS. (a) The agency by rule  
26 shall develop a comprehensive methodology for auditing and  
27 monitoring performance under contracts for services to develop

1 or administer assessment instruments required by Section 39.023  
2 to verify compliance with contractual obligations.

3 (b) The agency shall ensure that all new and renewed  
4 contracts described by Subsection (a) include a provision that  
5 the agency or a designee of the agency may conduct periodic  
6 contract compliance reviews, without advance notice, to monitor  
7 vendor performance.

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

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

12 (c-1) The indicator of student achievement under  
13 Subsection (c)(1) may not include student performance as to  
14 supporting knowledge or skills as described by Section 39.023(a-  
15 4).

16 SECTION 7. Section 39.055, Education Code, is amended to  
17 read as follows:

18 Sec. 39.055. STUDENT ORDERED BY A JUVENILE COURT OR  
19 STUDENT IN RESIDENTIAL FACILITY NOT CONSIDERED FOR  
20 ACCOUNTABILITY PURPOSES. Notwithstanding any other provision of  
21 this code except to the extent otherwise provided under Section  
22 39.054(f), for purposes of determining the performance of a  
23 school district, ~~or~~ campus, or open-enrollment charter school  
24 under this chapter, a student ordered by a juvenile court into a  
25 residential program or facility operated by or under contract  
26 with the Texas Juvenile Justice Department [~~Youth Commission,~~  
27 ~~the Texas Juvenile Probation Commission~~], a juvenile board, or



1 any other governmental entity or any student who is receiving  
2 treatment in a residential facility is not considered to be a  
3 student of the school district in which the program or facility  
4 is physically located or of an open-enrollment charter school,  
5 as applicable. The performance of such a student on an  
6 assessment instrument or other student achievement indicator  
7 adopted under Section 39.053 or reporting indicator adopted  
8 under Section 39.301 shall be determined, reported, and  
9 considered separately from the performance of students attending  
10 a school of the district in which the program or facility is  
11 physically located or an open-enrollment charter school, as  
12 applicable.

13 SECTION 8. This Act applies beginning with the 2013-2014  
14 school year.

15 SECTION 9. The Texas Education Agency is required to  
16 implement Sections 39.023(b-1) and (b-2), Education Code, as  
17 added by this Act, only if the legislature appropriates money  
18 specifically for that purpose. If the legislature does not  
19 appropriate money specifically for that purpose, the agency may,  
20 but is not required to, implement Sections 39.023(b-1) and  
21 (b-2), Education Code, using other appropriations available for  
22 that purpose.

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

**House Bill 2836**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

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

SECTION 1. Section 39.023, Education Code, is amended by adding Subsections (a-3), (a-4), (a-5), (b-1), and (b-2) to read as follows: [FA3(1)]

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) The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, ~~[writing]~~ mathematics, *social studies*, and science. Except as provided by Subsection (a-2), all students, other than students assessed under Subsection (b) or (l) or exempted under Section 39.027, shall be assessed in:

No equivalent provision.

Same as Senate version.

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

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

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

~~[(4)] *social studies, in grade eight;*~~

(4) ~~[(5)]~~ science, in grades five and eight; and

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

(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-3) Same as House version.

(a-3) Same as House version.

(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

No equivalent provision.

(a-4) Same as House version.

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

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

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

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

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

No equivalent provision.

(a-4) An assessment instrument adopted or developed under Subsection (a) must be designed so that *a majority of students* will be able to complete the assessment instrument within 180 minutes.

(a-5) Same as House version.

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

(a-5) Same as House version.

(a-6) Same as House version.

(b-1) Same as Senate version.

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SENATE VERSION (IE)

CONFERENCE

No equivalent provision.

assessment instrument. [FA3(2)]

(b-2) Assessment instruments redeveloped under Subsection (b-1) shall be administered beginning not later than the 2014-2015 school year. This subsection expires September 1, 2015. [FA3(2)]

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

No equivalent provision.

SECTION 2. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.0236 to read as follows:

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

Sec. 39.0236. STUDY OF ESSENTIAL KNOWLEDGE AND SKILLS AND ASSESSMENT INSTRUMENTS. (a) **An advisory committee shall be established to conduct a study regarding the essential knowledge and skills of the required curriculum and assessment instruments administered under Section 39.023 to students in grades three through eight. The committee must be composed of:**  
(1) four members of the senate education committee appointed by the lieutenant governor and four members of the house public education committee appointed by the speaker of the house of representatives;  
(2) two members of the public appointed by the lieutenant governor;  
(3) two members of the public appointed by the speaker of the house of representatives; and  
(4) two members of the State Board of Education appointed by the chair of the board.  
(b) The study must evaluate:  
(1) the number and scope of the essential knowledge and skills of each subject area of the required curriculum under Section 28.002 and whether the number or scope should be limited;

Sec. 39.0236. STUDY OF ESSENTIAL KNOWLEDGE AND SKILLS AND ASSESSMENT INSTRUMENTS. (a) **The agency shall conduct a study regarding the essential knowledge and skills of the required curriculum identified by the State Board of Education under Section 28.002 and assessment instruments administered under Section 39.023.**

See Sec. 39.0237 below.

(b) The study must evaluate:  
(1) the number and scope of the essential knowledge and skills of each subject of the required curriculum under Section 28.002, with each essential knowledge or skill identified as a

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CONFERENCE

(2) the number and subjects of assessment instruments under Section 39.023 that *should* be administered to students in grades three through eight; and  
(3) *whether* assessment instruments described by Subdivision (2) *should* assess only essential knowledge and skills or should also assess supporting standards.

(c) Not later than *October 1, 2014*, the *committee* shall prepare and submit to the *governor, each member of the legislature, the commissioner*, and the State Board of Education a report *that includes* the results of the study *and* recommendations regarding each issue evaluated under Subsection (b).

(d) This section expires June 1, 2015.

*See Sec. 39.0236(a) above.*

No equivalent provision.

*readiness or supporting standard*, and whether the number or scope should be limited;

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

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

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

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

*(C) how current standards compare to those parameters.*

(c) Not later than *March 1, 2014*, the *agency* shall prepare and submit to the State Board of Education a report *concerning* the results of the study under Subsection (b). *Not later than May 1, 2014, the State Board of Education shall review the study and shall submit to the governor, each member of the legislature, and the advisory committee established under Section 39.0237 the agency's report* and board recommendations regarding each issue evaluated under Subsection (b).

(d) This section expires June 1, 2015.

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

(1) four members of the senate education committee appointed

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by the lieutenant governor and four members of the house public education committee appointed by the speaker of the house of representatives;  
(2) two members of the public appointed by the lieutenant governor; and  
(3) two members of the public appointed by the speaker of the house of representatives.  
(b) The advisory committee shall review the agency study and State Board of Education recommendations under Section 39.0236. If the advisory committee determines that the agency study is insufficient, the advisory committee may perform an additional independent study to evaluate the agency study components required under Section 39.0236(b).  
(c) Not later than January 1, 2015, the committee shall 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 2. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.0263 to read as follows:  
Sec. 39.0263. ADMINISTRATION OF DISTRICT-

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-

SECTION 3. Same as House version.

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

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

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

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

No equivalent provision.

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, an advanced placement test, an international baccalaureate examination, *a formative assessment used by a teacher to adjust ongoing teaching and learning*, or an independent classroom examination designed or adopted and administered by a classroom teacher.

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

No equivalent provision.

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

SECTION 6. Same as House version.

SECTION 4. Same as Senate version.

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

No equivalent provision.

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

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

(b) The agency shall ensure that all new and renewed contracts described by Subsection (a) include a provision that the agency or a designee of the agency may conduct periodic contract compliance reviews, without advance notice, to monitor vendor performance.

(c) The agency shall adopt rules to administer this section.  
[FA4]

SECTION 5. Same as Senate version.

No equivalent provision.

SECTION \_\_. Section 39.055, Education Code, is amended to read as follows:

Sec. 39.055. STUDENT ORDERED BY A JUVENILE COURT OR STUDENT IN RESIDENTIAL FACILITY NOT CONSIDERED FOR ACCOUNTABILITY PURPOSES.

SECTION 7. Same as Senate version.



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Notwithstanding any other provision of this code, except to the extent otherwise provided under Section 39.054(f), for purposes of determining the performance of a school district, [ø] campus, or open-enrollment charter school under this chapter, a student ordered by a juvenile court into a residential program or facility operated by or under contract with the Texas Juvenile Justice Department [~~Youth Commission, the Texas Juvenile Probation Commission~~], a juvenile board, or any other governmental entity or any student who is receiving treatment in a residential facility is not considered to be a student of the school district in which the program or facility is physically located or of an open-enrollment charter school, as applicable. The performance of such a student on an assessment instrument or other student achievement indicator adopted under Section 39.053 or reporting indicator adopted under Section 39.301 shall be determined, reported, and considered separately from the performance of students attending a school of the district in which the program or facility is physically located or an open-enrollment charter school, as applicable. [FA2]

SECTION 4. This Act applies beginning with the 2013-2014 school year.

No equivalent provision.

SECTION 5. Same as House version.

No equivalent provision.

SECTION 8. Same as House version.

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

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HOUSE VERSION

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

SENATE VERSION (IE)

SECTION 6. Same as House version.

CONFERENCE

SECTION 10. Same as House version.

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 25, 2013**

**TO:** Honorable David Dewhurst, Lieutenant Governor, Senate  
Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2836** by Ratliff (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.), **Conference Committee Report**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2836, Conference Committee Report: a negative impact of (\$1,173,700) through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	(\$623,700)
2015	(\$550,000)
2016	\$0
2017	\$0
2018	\$0

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>Foundation School Fund</i> 193
2014	(\$623,700)
2015	(\$550,000)
2016	\$0
2017	\$0
2018	\$0

## **Fiscal Analysis**

The bill would require each assessment instrument to be determined to be valid and reliable on the basis of empirical evidence by an entity that is independent of the test developer and the Texas Education Agency (TEA).

The bill would require assessment instruments to be designed to primarily assess the essential knowledge and skills identified by the State Board of Education of the subject and for the grade level for which the assessment instrument is administered.

The bill would require assessments in grades three through five to be designed such that 85 percent of students complete the assessment within 120 minutes; assessments in grades six through eight shall be designed such that 85 percent of students complete the assessment within 180 minutes; and the maximum time allowed for an assessment is eight hours, to be completed in one calendar day.

The bill would require TEA to conduct a study regarding the essential knowledge and skills of the required curriculum and assessment instruments administered to students in grades three through eight; and would create an advisory committee to review that study.

The bill would require the Commissioner of Education to ensure that procedures are designed to minimize disruptions to school operations and the classroom environment.

The bill would require the Texas Education Agency (TEA) to redevelop assessment instruments for significantly cognitively disabled students. These assessment instruments could not require a teacher to prepare tasks or materials for a student who would be administered the assessment instrument. The bill would require the redeveloped assessment instruments to be administered beginning with the 2015-2016 school year.

The bill would require TEA to develop a comprehensive methodology for auditing and monitoring performance for contracts to provide services to develop or administer assessment instruments. The bill would require TEA to ensure that all such new and renewed contracts for services related to assessment instruments include provisions for compliance reviews to monitor vendor performance. The TEA reports that these provisions would have no significant fiscal impact on the agency, as TEA currently has a comprehensive auditing and monitoring methodology in place for vendors providing assessment instrument services. The TEA would be required to adopt this methodology in commissioner rule.

The bill would exclude students being served in a residential facility for accountability purposes for a campus, district, or open-enrollment charter school. These students would not be counted as dropouts if they left the residential facility after receiving treatment for fewer than 85 days and failed to enroll after treatment unless the campus or district that was serving the facility was the one to which the student was regularly assigned.

## **Methodology**

Based on information provided by TEA, the cost to redevelop assessment instruments administered to students with significant cognitive disabilities would be \$550,000 in fiscal year 2014 and \$550,000 in fiscal year 2015.

Based on the estimate of TEA, the cost to conduct a study of the essential knowledge and skills of

the required curriculum and assessment instruments would be \$73,700.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

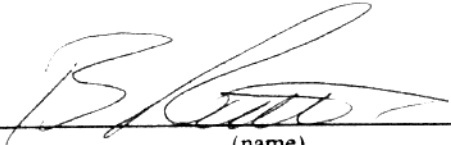
**Source Agencies:** 701 Central Education Agency

**LBB Staff:** UP, JBi, JSc, AH

## Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on H. B. 2836 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.

  
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(name)

5/25/13  
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(date)