

By: Patrick

H.B. No. 2552

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to administration of certain state assessment instruments  
3 only to a scientifically valid statistical sample of students.

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

5 SECTION 1. Section 39.023, Education Code, is amended by  
6 amending Subsections (a), (b), (c-1), (l), and (n) and adding  
7 Subsection (q) to read as follows:

8 (a) The agency shall adopt or develop appropriate  
9 criterion-referenced assessment instruments designed to assess  
10 essential knowledge and skills in reading, writing, mathematics,  
11 social studies, and science. Notwithstanding any other provision  
12 of this chapter, the assessment instruments shall be administered  
13 to the smallest percentage of students whose performance on the  
14 assessment instruments represents a scientifically valid  
15 statistical sample of the performance of the state's students in  
16 the applicable grades and of the appropriate racial, ethnic, and  
17 socioeconomic subpopulations of those students. As necessary to  
18 comply with federal law, the agency may use the statistical  
19 sampling method used for the administration of the National  
20 Assessment of Educational Progress (NAEP) assessments for purposes  
21 of the No Child Left Behind Act of 2001 (20 U.S.C. Section 6301 et  
22 seq.). In accordance with this subsection, [~~Except as provided by~~  
23 ~~Subsection (a-2), all~~] students[~~, other than students assessed~~  
24 ~~under Subsection (b) or (l) or exempted under Section 39.027,~~

1 shall be assessed in:

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

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

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

8 (4) social studies, in grade eight;

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

10 (6) any other subject and grade required by federal  
11 law.

12 (b) The agency shall develop or adopt appropriate  
13 criterion-referenced alternative assessment instruments to be  
14 administered in accordance with this subsection to students [~~each~~  
15 ~~student~~] in [~~a~~] special education programs [~~program~~] under  
16 Subchapter A, Chapter 29, for whom an assessment instrument adopted  
17 under Subsection (a), even with allowable accommodations, would not  
18 provide an appropriate measure of student achievement, as  
19 determined by a [~~the~~] student's admission, review, and dismissal  
20 committee. Notwithstanding any other provision of this chapter, the  
21 assessment instruments shall be administered to the smallest  
22 percentage of students in special education programs under  
23 Subchapter A, Chapter 29, in each grade level specified by  
24 Subsection (a) whose performance on the assessment instruments  
25 represents a scientifically valid statistical sample of student  
26 performance for each purpose for which the agency is required or  
27 otherwise intends to use the results. As necessary to comply with

1 federal law, the agency may use the statistical sampling method  
2 used for the administration of the National Assessment of  
3 Educational Progress (NAEP) assessments for purposes of the No  
4 Child Left Behind Act of 2001 (20 U.S.C. Section 6301 et seq.).

5 (c-1) The agency shall develop any assessment instrument  
6 required under this section in a manner that, to the greatest extent  
7 practicable, allows for the measurement of annual improvement in  
8 student achievement as required by Sections 39.034(c) and (d).

9 (1) The State Board of Education shall adopt rules for the  
10 administration, in accordance with this subsection, of the  
11 assessment instruments adopted under Subsection (a) in Spanish to  
12 students in grades three through five who are of limited English  
13 proficiency, as defined by Section 29.052, whose primary language  
14 is Spanish, and who are not otherwise exempt from the  
15 administration of an assessment instrument under Section  
16 39.027(a)(1) or (2). A ~~[Each]~~ student of limited English  
17 proficiency whose primary language is Spanish, other than a student  
18 to whom Subsection (b) applies, may be assessed using assessment  
19 instruments in Spanish under this subsection for up to three years  
20 or assessment instruments in English under Subsection (a). The  
21 language proficiency assessment committee established under  
22 Section 29.063 shall determine which students to whom an assessment  
23 instrument is administered shall be ~~[are]~~ administered assessment  
24 instruments in Spanish under this subsection. Notwithstanding any  
25 other provision of this chapter, the assessment instruments shall  
26 be administered to the smallest percentage of students to whom this  
27 subsection applies in grades three through five whose performance

1 on the assessment instruments represents a scientifically valid  
2 statistical sample of student performance for each purpose for  
3 which the agency is required or otherwise intends to use the  
4 results. As necessary to comply with federal law, the agency may  
5 use the statistical sampling method used for the administration of  
6 the National Assessment of Educational Progress (NAEP) assessments  
7 for purposes of the No Child Left Behind Act of 2001 (20 U.S.C.  
8 Section 6301 et seq.).

9 (n) This subsection applies only to a student who is  
10 determined to have dyslexia or a related disorder and who is an  
11 individual with a disability under 29 U.S.C. Section 705(20) and  
12 its subsequent amendments. The agency shall adopt or develop  
13 appropriate criterion-referenced assessment instruments designed  
14 to assess the ability of and to be administered in accordance with  
15 this subsection to students [~~each student~~] to whom this subsection  
16 applies for whom the assessment instruments adopted under  
17 Subsection (a), even with allowable modifications, would not  
18 provide an appropriate measure of student achievement, as  
19 determined by the committee established by the board of trustees of  
20 the district to determine the placement of students with dyslexia  
21 or related disorders. The committee shall determine whether any  
22 allowable modification is necessary in administering to a student  
23 an assessment instrument [~~required~~] under this subsection.  
24 Notwithstanding any other provision of this chapter, the assessment  
25 instruments shall be administered to the smallest percentage of  
26 students to whom this subsection applies in each grade level  
27 specified by Subsection (a) whose performance on the assessment

1 instruments represents a scientifically valid statistical sample  
2 of student performance for each purpose for which the agency is  
3 required or otherwise intends to use the results. As necessary to  
4 comply with federal law, the agency may use the statistical  
5 sampling method used for the administration of the National  
6 Assessment of Educational Progress (NAEP) assessments for purposes  
7 of the No Child Left Behind Act of 2001 (20 U.S.C. Section 6301 et  
8 seq.). The assessment instruments [~~required~~] under this subsection  
9 shall be administered on the same schedule as the assessment  
10 instruments administered under Subsection (a).

11 (q) If there is a conflict between the administration of  
12 assessment instruments in accordance with Subsection (a), (b), (l),  
13 or (n) and a federal law or regulation as a result of the method of  
14 administration of assessment instruments under that subsection,  
15 the commissioner shall seek a waiver from the application of the  
16 conflicting federal law or regulation. In seeking a waiver, the  
17 commissioner shall submit all relevant data.

18 SECTION 2. Section 28.0211, Education Code, is amended by  
19 adding Subsection (q) to read as follows:

20 (q) The commissioner shall modify the administration of  
21 this section as necessary to conform to the administration of  
22 assessment instruments specified under Subsection (a) only to a  
23 scientifically valid statistical sample of students as provided  
24 under Section 39.023.

25 SECTION 3. This Act applies beginning with the 2013-2014  
26 school year.

27 SECTION 4. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as  
2 provided by Section 39, Article III, Texas Constitution. If this  
3 Act does not receive the vote necessary for immediate effect, this  
4 Act takes effect September 1, 2013.