

By: Taylor, Bettencourt

S.B. No. 2094

A BILL TO BE ENTITLED

AN ACT

relating to the assessment of public school students, providing accelerated instruction for students who fail to achieve satisfactory performance on certain assessment instruments, and an accelerated learning and sustainment outcomes bonus allotment under the foundation school program.

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

SECTION 1. The heading to Section 28.0211, Education Code, is amended to read as follows:

Sec. 28.0211. ACCELERATED LEARNING COMMITTEE [~~SATISFACTORY PERFORMANCE ON ASSESSMENT INSTRUMENTS REQUIRED~~]; ACCELERATED INSTRUCTION; MODIFIED TEACHER ASSIGNMENT.

SECTION 2. Section 28.0211, Education Code, is amended by amending Subsections (a), (a-1), (a-2), (a-3), (c), (f), (i), (k), and (n) and adding Subsections (a-4), (a-5), (a-6), (f-1), (f-2), (f-3), (f-4), (f-5), and (n-1) to read as follows:

(a) A school district shall establish an accelerated learning committee described by Subsection (c) for each student who does not perform satisfactorily on:

(1) the third grade mathematics or reading assessment instrument under Section 39.023;

(2) [Except as provided by Subsection (b) or (c), a student may not be promoted to:

(1) the sixth grade program to which the student

1 ~~would otherwise be assigned if the student does not perform~~
2 ~~satisfactorily on~~ the fifth grade mathematics or [~~and~~] reading
3 assessment instrument [~~instruments~~] under Section 39.023; or

4 (3) [~~(2)~~] ~~the ninth grade program to which the student~~
5 ~~would otherwise be assigned if the student does not perform~~
6 ~~satisfactorily on~~ the eighth grade mathematics or [~~and~~] reading
7 assessment instrument [~~instruments~~] under Section 39.023.

8 (a-1) Each time a student fails to perform satisfactorily on
9 an assessment instrument administered under Section 39.023(a) in
10 the third, fourth, fifth, sixth, seventh, or eighth grade, the
11 school district in which the student attends school shall provide
12 to the student accelerated instruction in the applicable subject
13 area during the subsequent summer or school year and either:

14 (1) allow the student to be assigned a classroom
15 teacher who is certified as a master, exemplary, or recognized
16 teacher under Section 21.3521 for the subsequent school year in the
17 applicable subject area; or

18 (2) provide the student supplemental instruction
19 under Subsection (a-4).

20 (a-2) Accelerated instruction provided during the following
21 school year under Subsection (a-1) may require participation of the
22 student before or after normal school hours [~~and may include~~
23 ~~participation at times of the year outside normal school~~
24 ~~operations~~].

25 (a-3) In providing accelerated instruction under Subsection
26 (a-1), a district may not remove a student, except under
27 circumstances for which a student enrolled in the same grade level

1 who is not receiving accelerated instruction would be removed,
2 from:

3 (1) instruction in the foundation curriculum and
4 enrichment curriculum adopted under Section 28.002 for the grade
5 level in which the student is enrolled; or

6 (2) recess or other physical activity that is
7 available to other students enrolled in the same grade level.

8 (a-4) Supplemental instruction provided by a school
9 district under Subsection (a-1)(2) must:

10 (1) include targeted instruction in the essential
11 knowledge and skills for the applicable grade levels and subject
12 area;

13 (2) be provided in addition to instruction normally
14 provided to students in the grade level in which the student is
15 enrolled;

16 (3) be provided for no less than 30 total hours during
17 the subsequent summer or school year and, unless the instruction is
18 provided fully during summer, include instruction no less than once
19 per week during the school year;

20 (4) be designed to assist the student in achieving
21 satisfactory performance in the applicable grade level and subject
22 area;

23 (5) include effective instructional materials
24 designed for supplemental instruction;

25 (6) be provided to a student individually or in a group
26 of no more than three students, unless the parent or guardian of
27 each student in the group authorizes a larger group;

1 (7) be provided by a person with training in the
2 applicable instructional materials for the supplemental
3 instruction and under the oversight of the school district; and

4 (8) to the extent possible, be provided by one person
5 for the entirety of the student's supplemental instruction period.

6 (a-5) If there is more than one classroom teacher available
7 in the applicable subject area to which a student who fails to
8 perform satisfactorily on an assessment instrument specified under
9 Subsection (a) could be assigned for the subsequent school year,
10 the student's parent or guardian may choose the teacher who will
11 provide the applicable instruction to the student.

12 ~~[(a-2) A student who fails to perform satisfactorily on an~~
13 ~~assessment instrument specified under Subsection (a) and who is~~
14 ~~promoted to the next grade level must complete accelerated~~
15 ~~instruction required under Subsection (a-1) before placement in the~~
16 ~~next grade level. A student who fails to complete required~~
17 ~~accelerated instruction may not be promoted.]~~

18 (a-6) [(a-3)] The commissioner shall provide guidelines to
19 school districts on research-based best practices and effective
20 strategies that a district may use in developing an accelerated
21 instruction program and may provide resources to districts to
22 assist in the provision of an accelerated instruction program.

23 ~~(c) [Each time a student fails to perform satisfactorily on~~
24 ~~an assessment instrument specified under Subsection (a), the school~~
25 ~~district in which the student attends school shall provide to the~~
26 ~~student accelerated instruction in the applicable subject area,~~
27 ~~including reading instruction for a student who fails to perform~~

1 ~~satisfactorily on a reading assessment instrument.]~~ After a
 2 student fails to perform satisfactorily on an assessment instrument
 3 specified under Subsection (a), an accelerated learning [~~a second~~
 4 ~~time, a grade placement]~~ committee shall be established [~~to~~
 5 ~~prescribe the accelerated instruction the district shall provide to~~
 6 ~~the student before the student is administered the assessment~~
 7 ~~instrument the third time].~~ The accelerated learning [~~grade~~
 8 ~~placement]~~ committee shall be composed of the principal or the
 9 principal's designee, the student's parent or guardian, and the
 10 teacher of the subject of an assessment instrument on which the
 11 student failed to perform satisfactorily. The district shall
 12 notify the parent or guardian of the time and place for convening
 13 the accelerated learning [~~grade placement]~~ committee and the
 14 purpose of the committee. [~~An accelerated instruction group~~
 15 ~~administered by a school district under this section may not have a~~
 16 ~~ratio of more than 10 students for each teacher.]~~

17 (f) An accelerated learning [~~A school district shall~~
 18 ~~provide to a student who, after three attempts, has failed to~~
 19 ~~perform satisfactorily on an assessment instrument specified under~~
 20 ~~Subsection (a) accelerated instruction during the next school year~~
 21 ~~as prescribed by an educational plan developed for the student by~~
 22 ~~the student's grade placement] committee described by [~~established~~
 23 ~~under]~~ Subsection (c) shall, not later than the start of the
 24 subsequent school year, develop an [~~. The district shall provide~~
 25 ~~that accelerated instruction regardless of whether the student has~~
 26 ~~been promoted or retained. The] educational plan for the student
 27 that provides the necessary accelerated instruction [~~must be~~~~~~

1 ~~designed~~] to enable the student to perform at the appropriate grade
2 level by the conclusion of the school year.

3 (f-1) The educational plan under Subsection (f) must be
4 documented in writing, and a copy must be provided to the student's
5 parent or guardian.

6 (f-2) During the school year, the student shall be monitored
7 to ensure that the student is progressing in accordance with the
8 plan developed under Subsection (f). The district shall administer
9 to the student the assessment instrument for the grade level in
10 which the student is placed at the time the district regularly
11 administers the assessment instruments for that school year.

12 (f-3) The board of trustees of each school district shall
13 adopt a policy consistent with the grievance procedure adopted
14 under Section 26.011 to allow a parent to contest the content or
15 implementation of an educational plan developed under Subsection
16 (f).

17 (f-4) If a student who fails to perform satisfactorily on an
18 assessment instrument specified under Subsection (a) fails in the
19 subsequent school year to perform satisfactorily on an assessment
20 instrument in the same subject, the superintendent of the district,
21 or the superintendent's designee, shall meet with the student's
22 accelerated learning committee to:

23 (1) identify the reason the student did not perform
24 satisfactorily; and

25 (2) determine, in order to ensure the student performs
26 satisfactorily on the assessment instrument at the next
27 administration of the assessment instrument, whether:

1 (A) the educational plan developed for the
2 student under Subsection (f) must be modified to provide the
3 necessary accelerated instruction for that student; and

4 (B) any additional resources are required for
5 that student.

6 (f-5) The superintendent's designee under Subsection (f-4):

7 (1) may be an employee of a regional education service
8 center; and

9 (2) may not be a person who served on the student's
10 accelerated learning committee.

11 (i) The admission, review, and dismissal committee of a
12 student who participates in a district's special education program
13 under Subchapter A, Chapter 29, and who does not perform
14 satisfactorily on an assessment instrument specified under
15 Subsection (a) and administered under Section 39.023(a) or (b) must
16 meet to [~~before the student is administered the assessment~~
17 ~~instrument for the second time. The committee shall~~] determine[+]

18 [~~(1)~~] the manner in which the student will participate
19 in an accelerated instruction program under this section[+ and

20 [~~(2) whether the student will be promoted in~~
21 ~~accordance with Subsection (i-1) or retained under this section].~~

22 (k) The commissioner may [~~shall~~] adopt rules as necessary to
23 implement this section[+ ~~including rules concerning when school~~
24 ~~districts shall administer assessment instruments required under~~
25 ~~this section and which administration of the assessment instruments~~
26 ~~will be used for purposes of Section 39.054].~~

27 (n) Except as provided by Subsection (n-1), a [A] student

1 who fails to perform satisfactorily on an assessment instrument
2 specified under Subsection (a) and is promoted to the next grade
3 level [~~by a grade placement committee under this section~~] must be
4 assigned in the subsequent school year in each subject in which the
5 student failed to perform satisfactorily on an assessment
6 instrument specified under Subsection (a) to an appropriately
7 certified [~~a~~] teacher who meets all state and federal
8 qualifications to teach that subject and grade.

9 (n-1) In a manner consistent with federal law and
10 notwithstanding any other law, the commissioner may waive the
11 requirement under Subsection (n) regarding the assignment of a
12 student to an appropriately certified classroom teacher on the
13 request of a school district.

14 SECTION 3. Section 28.0217, Education Code, is amended to
15 read as follows:

16 Sec. 28.0217. ACCELERATED INSTRUCTION FOR HIGH SCHOOL
17 STUDENTS. (a) Each time a student fails to perform satisfactorily
18 on an assessment instrument administered under Section 39.023(c),
19 the school district in which the student attends school shall
20 provide to the student accelerated instruction in the applicable
21 subject area [~~, using funds appropriated for accelerated~~
22 ~~instruction under Section 28.0211~~].

23 (b) Accelerated instruction provided under this section:

24 (1) may require participation of the student before or
25 after normal school hours and may include participation at times of
26 the year outside normal school operations; and

27 (2) must comply with the requirements for accelerated

1 instruction provided under Section 28.0211.

2 SECTION 4. Section 39.025(b-1), Education Code, is amended
3 to read as follows:

4 (b-1) A school district shall provide each student who fails
5 to perform satisfactorily as determined by the commissioner under
6 Section 39.0241(a) on an end-of-course assessment instrument with
7 accelerated instruction under Section 28.0217 in the subject
8 assessed by the assessment instrument.

9 SECTION 5. Section 39.301(c), Education Code, is amended to
10 read as follows:

11 (c) Indicators for reporting purposes must include:

12 (1) the percentage of graduating students who meet the
13 course requirements established by State Board of Education rule
14 for:

15 (A) the foundation high school program;

16 (B) the distinguished level of achievement under
17 the foundation high school program; and

18 (C) each endorsement described by Section
19 28.025(c-1);

20 (2) the results of the SAT, ACT, and certified
21 workforce training programs described by Chapter 311, Labor Code;

22 (3) for students who have failed to perform
23 satisfactorily, under each performance standard under Section
24 39.0241, on an assessment instrument required under Section
25 39.023(a) or (c), the performance of those students on subsequent
26 assessment instruments required under those sections, aggregated
27 by grade level and subject area;

1 (4) for each campus, the number of students,
2 disaggregated by major student subpopulations, that take courses
3 under the foundation high school program and take additional
4 courses to earn an endorsement under Section 28.025(c-1),
5 disaggregated by type of endorsement;

6 (5) the percentage of students, aggregated by grade
7 level, provided accelerated instruction under Section 28.0211
8 [~~28.0211(c)~~], the results of assessment instruments administered
9 under that section, [~~the percentage of students promoted through~~
10 ~~the grade placement committee process under Section 28.0211,~~] the
11 subject of the assessment instrument on which each student failed
12 to perform satisfactorily under each performance standard under
13 Section 39.0241, and the performance of those students in the
14 subsequent school year [~~following that promotion~~] on the assessment
15 instruments required under Section 39.023;

16 (6) the percentage of students of limited English
17 proficiency exempted from the administration of an assessment
18 instrument under Sections 39.027(a)(1) and (2);

19 (7) the percentage of students in a special education
20 program under Subchapter A, Chapter 29, assessed through assessment
21 instruments developed or adopted under Section 39.023(b);

22 (8) the percentage of students who satisfy the college
23 readiness measure;

24 (9) the measure of progress toward dual language
25 proficiency under Section 39.034(b), for students of limited
26 English proficiency, as defined by Section 29.052;

27 (10) the percentage of students who are not

1 educationally disadvantaged;

2 (11) the percentage of students who enroll and begin
3 instruction at an institution of higher education in the school
4 year following high school graduation; and

5 (12) the percentage of students who successfully
6 complete the first year of instruction at an institution of higher
7 education without needing a developmental education course.

8 SECTION 6. Subchapter C, Chapter 48, Education Code, is
9 amended by adding Section 48.1102 to read as follows:

10 Sec. 48.1102. ACCELERATED LEARNING AND SUSTAINMENT

11 OUTCOMES BONUS. (a) For purposes of this section, a student is a:

12 (1) successfully accelerated student if the student:

13 (A) performs satisfactorily or better on an
14 assessment instrument administered under Section 39.023(a); and

15 (B) was administered but did not perform
16 satisfactorily on the assessment instrument administered under
17 Section 39.023(a) for the same subject in the student's preceding
18 grade level; and

19 (2) sustained accelerated student if the student:

20 (A) performs at the level determined under
21 Section 39.0241(a-1) or the equivalent to determine preparedness
22 for the student's next grade level or better on an assessment
23 instrument administered under Section 39.023(a);

24 (B) performs satisfactorily or better on the
25 assessment instrument administered under Section 39.023(a) for the
26 same subject in the student's preceding grade level; and

27 (C) was administered but did not perform

1 satisfactorily on the assessment instrument administered under
2 Section 39.023(a) for the grade level and subject preceding the
3 assessment described by Paragraph (B).

4 (b) For each successfully accelerated student in excess of
5 the minimum number of students determined for the district or
6 school under Subsection (d), a school district or open-enrollment
7 charter school is entitled to the following annual outcomes bonus:

8 (1) \$500 for each student who is not educationally
9 disadvantaged; and

10 (2) \$1,000 for each student who is educationally
11 disadvantaged.

12 (c) For each sustained accelerated student, a school
13 district or open-enrollment charter school is entitled to the
14 following annual outcomes bonus:

15 (1) \$250 for each student who is not educationally
16 disadvantaged; and

17 (2) \$500 for each student who is educationally
18 disadvantaged.

19 (d) The commissioner shall establish, using a percentile
20 determined by the commissioner based on the median performance of
21 school districts and open-enrollment charter schools on
22 assessments administered under Section 39.023(a) during the
23 2017-2018 school year, a threshold percentage of:

24 (1) successfully accelerated students who are not
25 educationally disadvantaged; and

26 (2) successfully accelerated students who are
27 educationally disadvantaged.

1 (e) Each year, the commissioner shall determine for each
2 school district and open-enrollment charter school the minimum
3 number of successfully accelerated students the district or school
4 must have in order for the district to achieve the percentage equal
5 to the threshold percentage established for that group of students
6 described by Subsection (b).

7 (f) The commissioner may modify the threshold percentages
8 established under Subsection (d) once every five years if the
9 commissioner determines that substantial improvement in the median
10 performance of school districts and open-enrollment charter
11 schools has occurred.

12 SECTION 7. Section 51.338(d), Education Code, is amended to
13 read as follows:

14 (d) A student who has demonstrated the performance standard
15 for college readiness as provided by Section 28.008 on the
16 postsecondary readiness assessment instruments adopted under
17 Section 39.0238 for Algebra II and English III, as that section
18 existed before repeal by H.B. 4545, Acts of the 87th Legislature,
19 Regular Session, 2021, is exempt from the requirements of this
20 subchapter with respect to those content areas. The commissioner
21 of higher education by rule shall establish the period for which an
22 exemption under this subsection is valid.

23 SECTION 8. The following provisions of the Education Code
24 are repealed:

25 (1) Sections 28.0211(b), (d), (e), (i-1), (i-2), (m),
26 and (m-1);

27 (2) Section 39.0231; and

1 (3) Section 39.0238.

2 SECTION 9. As soon as practicable after the effective date
3 of this Act, the board of trustees of a school district shall adopt
4 a policy as required by Section 28.0211(f-3), Education Code, as
5 added by this Act.

6 SECTION 10. This Act applies beginning with the 2021-2022
7 school year.

8 SECTION 11. This Act takes effect immediately if it
9 receives a vote of two-thirds of all the members elected to each
10 house, as provided by Section 39, Article III, Texas Constitution.
11 If this Act does not receive the vote necessary for immediate
12 effect, this Act takes effect September 1, 2021.