

1-1 By: Taylor S.B. No. 2094
1-2 (In the Senate - Filed March 12, 2021; April 1, 2021, read
1-3 first time and referred to Committee on Education; May 13, 2021,
1-4 reported adversely, with favorable Committee Substitute by the
1-5 following vote: Yeas 8, Nays 3; May 13, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13		X		
1-14	X			
1-15	X			
1-16		X		
1-17	X			
1-18		X		

1-19 COMMITTEE SUBSTITUTE FOR S.B. No. 2094 By: Taylor

1-20 A BILL TO BE ENTITLED
1-21 AN ACT

1-22 relating to the assessment of public school students, providing
1-23 accelerated instruction for students who fail to achieve
1-24 satisfactory performance on certain assessment instruments, and an
1-25 accelerated learning and sustainment outcomes bonus allotment
1-26 under the foundation school program.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-28 SECTION 1. The heading to Section 28.0211, Education Code,
1-29 is amended to read as follows:

1-30 Sec. 28.0211. ACCELERATED LEARNING COMMITTEE [~~SATISFACTORY~~
1-31 ~~PERFORMANCE ON ASSESSMENT INSTRUMENTS REQUIRED~~]; ACCELERATED
1-32 INSTRUCTION; MODIFIED TEACHER ASSIGNMENT.

1-33 SECTION 2. Section 28.0211, Education Code, is amended by
1-34 amending Subsections (a), (a-1), (a-2), (a-3), (c), (f), (i), (k),
1-35 and (n) and adding Subsections (a-4), (a-5), (a-6), (f-1), (f-2),
1-36 (f-3), (f-4), (f-5), and (n-1) to read as follows:

1-37 (a) A school district shall establish an accelerated
1-38 learning committee described by Subsection (c) for each student who
1-39 does not perform satisfactorily on:

1-40 (1) the third grade mathematics or reading assessment
1-41 instrument under Section 39.023;

1-42 (2) [Except as provided by Subsection (b) or (c), a
1-43 student may not be promoted to:

1-44 [(1) the sixth grade program to which the student
1-45 would otherwise be assigned if the student does not perform
1-46 satisfactorily on] the fifth grade mathematics or [and] reading
1-47 assessment instrument [instruments] under Section 39.023; or

1-48 (3) [(2) the ninth grade program to which the student
1-49 would otherwise be assigned if the student does not perform
1-50 satisfactorily on] the eighth grade mathematics or [and] reading
1-51 assessment instrument [instruments] under Section 39.023.

1-52 (a-1) Each time a student fails to perform satisfactorily on
1-53 an assessment instrument administered under Section 39.023(a) in
1-54 the third, fourth, fifth, sixth, seventh, or eighth grade, the
1-55 school district in which the student attends school shall provide
1-56 to the student accelerated instruction in the applicable subject
1-57 area during the subsequent summer or school year and either:

1-58 (1) allow the student to be assigned a classroom
1-59 teacher who is certified as a master, exemplary, or recognized
1-60 teacher under Section 21.3521 for the subsequent school year in the

2-1 applicable subject area; or
2-2 (2) provide the student supplemental instruction
2-3 under Subsection (a-4).
2-4 (a-2) Accelerated instruction provided during the following
2-5 school year under Subsection (a-1) may require participation of the
2-6 student before or after normal school hours [and may include
2-7 participation at times of the year outside normal school
2-8 operations].
2-9 (a-3) In providing accelerated instruction under Subsection
2-10 (a-1), a district may not remove a student, except under
2-11 circumstances for which a student enrolled in the same grade level
2-12 who is not receiving accelerated instruction would be removed,
2-13 from:
2-14 (1) instruction in the foundation curriculum and
2-15 enrichment curriculum adopted under Section 28.002 for the grade
2-16 level in which the student is enrolled; or
2-17 (2) recess or other physical activity that is
2-18 available to other students enrolled in the same grade level.
2-19 (a-4) Supplemental instruction provided by a school
2-20 district under Subsection (a-1)(2) must:
2-21 (1) include targeted instruction in the essential
2-22 knowledge and skills for the applicable grade levels and subject
2-23 area;
2-24 (2) be provided in addition to instruction normally
2-25 provided to students in the grade level in which the student is
2-26 enrolled;
2-27 (3) be provided for no less than 30 total hours during
2-28 the subsequent summer or school year and, unless the instruction is
2-29 provided fully during summer, include instruction no less than once
2-30 per week during the school year;
2-31 (4) be designed to assist the student in achieving
2-32 satisfactory performance in the applicable grade level and subject
2-33 area;
2-34 (5) include effective instructional materials
2-35 designed for supplemental instruction;
2-36 (6) be provided to a student individually or in a group
2-37 of no more than three students, unless the parent or guardian of
2-38 each student in the group authorizes a larger group;
2-39 (7) be provided by a person with training in the
2-40 applicable instructional materials for the supplemental
2-41 instruction and under the oversight of the school district; and
2-42 (8) to the extent possible, be provided by one person
2-43 for the entirety of the student's supplemental instruction period.
2-44 (a-5) If there is more than one classroom teacher available
2-45 in the applicable subject area to which a student who fails to
2-46 perform satisfactorily on an assessment instrument specified under
2-47 Subsection (a) could be assigned for the subsequent school year,
2-48 the student's parent or guardian may choose the teacher who will
2-49 provide the applicable instruction to the student.
2-50 ~~[(a-2) A student who fails to perform satisfactorily on an~~
2-51 ~~assessment instrument specified under Subsection (a) and who is~~
2-52 ~~promoted to the next grade level must complete accelerated~~
2-53 ~~instruction required under Subsection (a-1) before placement in the~~
2-54 ~~next grade level. A student who fails to complete required~~
2-55 ~~accelerated instruction may not be promoted.]~~
2-56 (a-6) [(a-3)] The commissioner shall provide guidelines to
2-57 school districts on research-based best practices and effective
2-58 strategies that a district may use in developing an accelerated
2-59 instruction program and may provide resources to districts to
2-60 assist in the provision of an accelerated instruction program.
2-61 ~~(c) [Each time a student fails to perform satisfactorily on~~
2-62 ~~an assessment instrument specified under Subsection (a), the school~~
2-63 ~~district in which the student attends school shall provide to the~~
2-64 ~~student accelerated instruction in the applicable subject area,~~
2-65 ~~including reading instruction for a student who fails to perform~~
2-66 ~~satisfactorily on a reading assessment instrument.] After a~~
2-67 ~~student fails to perform satisfactorily on an assessment instrument~~
2-68 ~~specified under Subsection (a), an accelerated learning [a second~~
2-69 ~~time, a grade placement] committee shall be established [to~~

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

3-13 ~~(f) An accelerated learning [A school district shall~~
 3-14 ~~provide to a student who, after three attempts, has failed to~~
 3-15 ~~perform satisfactorily on an assessment instrument specified under~~
 3-16 ~~Subsection (a) accelerated instruction during the next school year~~
 3-17 ~~as prescribed by an educational plan developed for the student by~~
 3-18 ~~the student's grade placement] committee described by [established~~
 3-19 ~~under] Subsection (c) shall, not later than the start of the~~
 3-20 ~~subsequent school year, develop an[. The district shall provide~~
 3-21 ~~that accelerated instruction regardless of whether the student has~~
 3-22 ~~been promoted or retained. The] educational plan for the student~~
 3-23 ~~that provides the necessary accelerated instruction [must be~~
 3-24 ~~designed] to enable the student to perform at the appropriate grade~~
 3-25 ~~level by the conclusion of the school year.~~

3-26 ~~(f-1) The educational plan under Subsection (f) must be~~
 3-27 ~~documented in writing, and a copy must be provided to the student's~~
 3-28 ~~parent or guardian.~~

3-29 ~~(f-2) During the school year, the student shall be monitored~~
 3-30 ~~to ensure that the student is progressing in accordance with the~~
 3-31 ~~plan developed under Subsection (f). The district shall administer~~
 3-32 ~~to the student the assessment instrument for the grade level in~~
 3-33 ~~which the student is placed at the time the district regularly~~
 3-34 ~~administers the assessment instruments for that school year.~~

3-35 ~~(f-3) The board of trustees of each school district shall~~
 3-36 ~~adopt a policy consistent with the grievance procedure adopted~~
 3-37 ~~under Section 26.011 to allow a parent to contest the content or~~
 3-38 ~~implementation of an educational plan developed under Subsection~~
 3-39 ~~(f).~~

3-40 ~~(f-4) If a student who fails to perform satisfactorily on an~~
 3-41 ~~assessment instrument specified under Subsection (a) fails in the~~
 3-42 ~~subsequent school year to perform satisfactorily on an assessment~~
 3-43 ~~instrument in the same subject, the superintendent of the district,~~
 3-44 ~~or the superintendent's designee, shall meet with the student's~~
 3-45 ~~accelerated learning committee to:~~

3-46 ~~(1) identify the reason the student did not perform~~
 3-47 ~~satisfactorily; and~~

3-48 ~~(2) determine, in order to ensure the student performs~~
 3-49 ~~satisfactorily on the assessment instrument at the next~~
 3-50 ~~administration of the assessment instrument, whether:~~

3-51 ~~(A) the educational plan developed for the~~
 3-52 ~~student under Subsection (f) must be modified to provide the~~
 3-53 ~~necessary accelerated instruction for that student; and~~

3-54 ~~(B) any additional resources are required for~~
 3-55 ~~that student.~~

3-56 ~~(f-5) The superintendent's designee under Subsection (f-4):~~

3-57 ~~(1) may be an employee of a regional education service~~
 3-58 ~~center; and~~

3-59 ~~(2) may not be a person who served on the student's~~
 3-60 ~~accelerated learning committee.~~

3-61 ~~(i) The admission, review, and dismissal committee of a~~
 3-62 ~~student who participates in a district's special education program~~
 3-63 ~~under Subchapter A, Chapter 29, and who does not perform~~
 3-64 ~~satisfactorily on an assessment instrument specified under~~
 3-65 ~~Subsection (a) and administered under Section 39.023(a) or (b) must~~
 3-66 ~~meet to [before the student is administered the assessment~~
 3-67 ~~instrument for the second time. The committee shall] determine[+~~

3-68 ~~[-(1)] the manner in which the student will participate~~
 3-69 ~~in an accelerated instruction program under this section[+, and~~

4-1 ~~[(2) whether the student will be promoted in~~
4-2 ~~accordance with Subsection (i-1) or retained under this section].~~

4-3 (k) The commissioner may ~~[shall]~~ adopt rules as necessary to
4-4 implement this section~~[, including rules concerning when school~~
4-5 ~~districts shall administer assessment instruments required under~~
4-6 ~~this section and which administration of the assessment instruments~~
4-7 ~~will be used for purposes of Section 39.054].~~

4-8 (n) Except as provided by Subsection (n-1), a [A] student
4-9 who fails to perform satisfactorily on an assessment instrument
4-10 specified under Subsection (a) and is promoted to the next grade
4-11 level [by a grade placement committee under this section] must be
4-12 assigned in the subsequent school year in each subject in which the
4-13 student failed to perform satisfactorily on an assessment
4-14 instrument specified under Subsection (a) to an appropriately
4-15 certified [a] teacher who meets all state and federal
4-16 qualifications to teach that subject and grade.

4-17 (n-1) In a manner consistent with federal law and
4-18 notwithstanding any other law, the commissioner may waive the
4-19 requirement under Subsection (n) regarding the assignment of a
4-20 student to an appropriately certified classroom teacher on the
4-21 request of a school district.

4-22 SECTION 3. Section 28.0217, Education Code, is amended to
4-23 read as follows:

4-24 Sec. 28.0217. ACCELERATED INSTRUCTION FOR HIGH SCHOOL
4-25 STUDENTS. (a) Each time a student fails to perform satisfactorily
4-26 on an assessment instrument administered under Section 39.023(c),
4-27 the school district in which the student attends school shall
4-28 provide to the student accelerated instruction in the applicable
4-29 subject area~~[, using funds appropriated for accelerated~~
4-30 ~~instruction under Section 28.0211].~~

4-31 (b) Accelerated instruction provided under this section:
4-32 (1) may require participation of the student before or
4-33 after normal school hours and may include participation at times of
4-34 the year outside normal school operations; and
4-35 (2) must comply with the requirements for accelerated
4-36 instruction provided under Section 28.0211.

4-37 SECTION 4. Section 39.025(b-1), Education Code, is amended
4-38 to read as follows:

4-39 (b-1) A school district shall provide each student who fails
4-40 to perform satisfactorily as determined by the commissioner under
4-41 Section 39.0241(a) on an end-of-course assessment instrument with
4-42 accelerated instruction under Section 28.0217 in the subject
4-43 assessed by the assessment instrument.

4-44 SECTION 5. Section 39.301(c), Education Code, is amended to
4-45 read as follows:

4-46 (c) Indicators for reporting purposes must include:
4-47 (1) the percentage of graduating students who meet the
4-48 course requirements established by State Board of Education rule
4-49 for:

4-50 (A) the foundation high school program;
4-51 (B) the distinguished level of achievement under
4-52 the foundation high school program; and
4-53 (C) each endorsement described by Section
4-54 28.025(c-1);

4-55 (2) the results of the SAT, ACT, and certified
4-56 workforce training programs described by Chapter 311, Labor Code;

4-57 (3) for students who have failed to perform
4-58 satisfactorily, under each performance standard under Section
4-59 39.0241, on an assessment instrument required under Section
4-60 39.023(a) or (c), the performance of those students on subsequent
4-61 assessment instruments required under those sections, aggregated
4-62 by grade level and subject area;

4-63 (4) for each campus, the number of students,
4-64 disaggregated by major student subpopulations, that take courses
4-65 under the foundation high school program and take additional
4-66 courses to earn an endorsement under Section 28.025(c-1),
4-67 disaggregated by type of endorsement;

4-68 (5) the percentage of students, aggregated by grade
4-69 level, provided accelerated instruction under Section 28.0211

5-1 [~~28.0211(c)~~], the results of assessment instruments administered
5-2 under that section, [~~the percentage of students promoted through~~
5-3 ~~the grade placement committee process under Section 28.0211,~~] the
5-4 subject of the assessment instrument on which each student failed
5-5 to perform satisfactorily under each performance standard under
5-6 Section 39.0241, and the performance of those students in the
5-7 subsequent school year [~~following that promotion~~] on the assessment
5-8 instruments required under Section 39.023;

5-9 (6) the percentage of students of limited English
5-10 proficiency exempted from the administration of an assessment
5-11 instrument under Sections 39.027(a)(1) and (2);

5-12 (7) the percentage of students in a special education
5-13 program under Subchapter A, Chapter 29, assessed through assessment
5-14 instruments developed or adopted under Section 39.023(b);

5-15 (8) the percentage of students who satisfy the college
5-16 readiness measure;

5-17 (9) the measure of progress toward dual language
5-18 proficiency under Section 39.034(b), for students of limited
5-19 English proficiency, as defined by Section 29.052;

5-20 (10) the percentage of students who are not
5-21 educationally disadvantaged;

5-22 (11) the percentage of students who enroll and begin
5-23 instruction at an institution of higher education in the school
5-24 year following high school graduation; and

5-25 (12) the percentage of students who successfully
5-26 complete the first year of instruction at an institution of higher
5-27 education without needing a developmental education course.

5-28 SECTION 6. Subchapter C, Chapter 48, Education Code, is
5-29 amended by adding Section 48.1102 to read as follows:

5-30 Sec. 48.1102. ACCELERATED LEARNING AND SUSTAINMENT
5-31 OUTCOMES BONUS. (a) For purposes of this section, a student is a:

5-32 (1) successfully accelerated student if the student:

5-33 (A) performs satisfactorily or better on an
5-34 assessment instrument administered under Section 39.023(a); and

5-35 (B) was administered but did not perform
5-36 satisfactorily on the assessment instrument administered under
5-37 Section 39.023(a) for the same subject in the student's preceding
5-38 grade level; and

5-39 (2) sustained accelerated student if the student:

5-40 (A) performs at the level determined under
5-41 Section 39.0241(a-1) or the equivalent to determine preparedness
5-42 for the student's next grade level or better on an assessment
5-43 instrument administered under Section 39.023(a);

5-44 (B) performs satisfactorily or better on the
5-45 assessment instrument administered under Section 39.023(a) for the
5-46 same subject in the student's preceding grade level; and

5-47 (C) was administered but did not perform
5-48 satisfactorily on the assessment instrument administered under
5-49 Section 39.023(a) for the grade level and subject preceding the
5-50 assessment described by Paragraph (B).

5-51 (b) For each successfully accelerated student in excess of
5-52 the minimum number of students determined for the district or
5-53 school under Subsection (d), a school district or open-enrollment
5-54 charter school is entitled to the following annual outcomes bonus:

5-55 (1) \$500 for each student who is not educationally
5-56 disadvantaged; and

5-57 (2) \$1,000 for each student who is educationally
5-58 disadvantaged.

5-59 (c) For each sustained accelerated student, a school
5-60 district or open-enrollment charter school is entitled to the
5-61 following annual outcomes bonus:

5-62 (1) \$250 for each student who is not educationally
5-63 disadvantaged; and

5-64 (2) \$500 for each student who is educationally
5-65 disadvantaged.

5-66 (d) The commissioner shall establish, using a percentile
5-67 determined by the commissioner based on the median performance of
5-68 school districts and open-enrollment charter schools on
5-69 assessments administered under Section 39.023(a) during the

6-1 2017-2018 school year, a threshold percentage of:
6-2 (1) successfully accelerated students who are not
6-3 educationally disadvantaged; and
6-4 (2) successfully accelerated students who are
6-5 educationally disadvantaged.

6-6 (e) Each year, the commissioner shall determine for each
6-7 school district and open-enrollment charter school the minimum
6-8 number of successfully accelerated students the district or school
6-9 must have in order for the district to achieve the percentage equal
6-10 to the threshold percentage established for that group of students
6-11 described by Subsection (b).

6-12 (f) The commissioner may modify the threshold percentages
6-13 established under Subsection (d) once every five years if the
6-14 commissioner determines that substantial improvement in the median
6-15 performance of school districts and open-enrollment charter
6-16 schools has occurred.

6-17 SECTION 7. Section 51.338(d), Education Code, is amended to
6-18 read as follows:

6-19 (d) A student who has demonstrated the performance standard
6-20 for college readiness as provided by Section 28.008 on the
6-21 postsecondary readiness assessment instruments adopted under
6-22 Section 39.0238 for Algebra II and English III, as that section
6-23 existed before repeal by H.B. 4545, Acts of the 87th Legislature,
6-24 Regular Session, 2021, is exempt from the requirements of this
6-25 subchapter with respect to those content areas. The commissioner
6-26 of higher education by rule shall establish the period for which an
6-27 exemption under this subsection is valid.

6-28 SECTION 8. The following provisions of the Education Code
6-29 are repealed:

- 6-30 (1) Sections 28.0211(b), (d), (e), (i-1), (i-2), (m),
- 6-31 and (m-1);
- 6-32 (2) Section 39.0231; and
- 6-33 (3) Section 39.0238.

6-34 SECTION 9. As soon as practicable after the effective date
6-35 of this Act, the board of trustees of a school district shall adopt
6-36 a policy as required by Section 28.0211(f-3), Education Code, as
6-37 added by this Act.

6-38 SECTION 10. This Act applies beginning with the 2021-2022
6-39 school year.

6-40 SECTION 11. This Act takes effect immediately if it
6-41 receives a vote of two-thirds of all the members elected to each
6-42 house, as provided by Section 39, Article III, Texas Constitution.
6-43 If this Act does not receive the vote necessary for immediate
6-44 effect, this Act takes effect September 1, 2021.

6-45 * * * * *