

## **BILL ANALYSIS**

Senate Research Center

H.B. 515  
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Education  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under the current state testing system, time spent learning in the classroom is reduced by the amount of testing that students must endure, both within a school year and throughout the entirety of K-12. The purpose of H.B. 515, as passed by the house of representatives, is to reduce the number of tests administered to students and to return valuable classroom instruction time to teachers and students alike. Additionally, H.B. 515 incorporates results from a writing pilot, implemented as a result of legislation in the 84th Legislature, into the current writing assessment. This will create a more authentic assessment of students' writing abilities.

Further, H.B. 515 eliminates the retesting of 5th and 8th grade students. Students in 5th or 8th grade who do not meet performance standards on mathematics and reading are currently retested up to two times—a potential of three tests for one subject—in an attempt to have the student pass the test. H.B. 515 removes retesting for students in 5th and 8th grade mathematics or reading and implements accelerated learning committees for 3rd, 5th, or 8th grade students who fail those assessments. These committees are charged with ensuring students receive accelerated learning to ensure those students are given adequate instruction to reach grade level performance standards by the end of the subsequent school year.

H.B. 515 amends current law relating to assessment of public school students and providing accelerated instruction and eliminating performance requirements based on performance on certain assessment instruments.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner in SECTION 9 (Section 39.02304, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner of education (commissioner) is modified in SECTION 2 (Section 28.0211, Education Code) and SECTION 10 (Section 39.025, Education Code) of this bill.

Rulemaking authority previously granted to the State Board of Education is rescinded in SECTION 7 (Section 39.023, Education Code) and SECTION 14 (Section 28.0211, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Section 28.0211, Education Code, to read as follows:

Sec. 28.0211. ACCELERATED LEARNING COMMITTEE; ACCELERATED INSTRUCTION.

SECTION 2. Amends Section 28.0211, Education Code, by amending Subsections (a), (a-1), (a-3), (c), (f), (i), (k), and (n) and adding Subsections (f-1) and (f-2), as follows:

(a) Requires a district to 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 (Adoption and Administration of Instruments);

(2) the fifth grade mathematics or reading assessment instrument under Section 39.023. Deletes existing text prohibiting a student, except as provided by Subsection (b) (relating to requiring the district to provide to a student who fails to perform satisfactorily on a certain assessment instrument two opportunities to retake the instrument) or (e) (relating to the appeal process of a student who is retained), from being promoted to the sixth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the fifth grade mathematics and reading assessment instruments under Section 39.023; or

(3) the eighth grade mathematics or reading assessment instrument under Section 39.023. Deletes existing text relating to the ninth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the eighth grade mathematics and reading assessment instruments under Section 39.023.

(a-1) Authorizes accelerated instruction to require participation of the student before or after normal school hours, to include participation at times of the year outside normal school operations, and to be provided to the student during the subsequent school year. Makes a nonsubstantive change.

(a-3) Authorizes the commissioner of education (commissioner) to provide to districts available resources concerning research-based best practices and effective strategies that a district is authorized to use in developing an accelerated instruction program.

(c) Requires that an accelerated learning committee be established after a student fails to perform satisfactorily on an assessment instrument specified under Subsection (a). Requires that an accelerated learning committee, rather than a grade placement committee, be composed of the principal or the principal's designee, the student's parent or guardian, and the teacher of the subject of an assessment instrument on which the student failed to perform satisfactorily. Requires the district to notify the parent or guardian of the time and place for convening the accelerated learning committee and the purpose of the committee. Deletes existing text requiring each school district in which the student attends school, each time a student fails to perform satisfactorily on an assessment instrument specified under Subsection (a), to provide to the student accelerated instruction in the applicable subject area, including reading instruction for a student who fails to perform satisfactorily on a reading assessment instrument. Deletes existing text requiring a grade placement committee, after a student fails to perform satisfactorily on an assessment instrument a second time, to be established to prescribe the accelerated instruction the district is required to provide to the student before the student is administered the assessment instrument the third time. Deletes existing text prohibiting an accelerated instruction group administered by a school district under this section from having a ratio of more than 10 students for each teacher. Makes a conforming change.

(f) Requires an accelerated learning committee described by Subsection (c), to:

(1) develop an educational plan for the student that provides the necessary accelerated instruction for the student to achieve appropriate grade level performance; and

(2) provide other assistance to the student in accordance with a policy adopted by the district board of trustees prescribing the role of accelerated learning committees in that district.

Deletes existing text requiring a school district to provide to a student who, after three attempts, has failed to perform satisfactorily on an assessment instrument

specified under Subsection (a) accelerated instruction during the next school year as prescribed by an educational plan developed for the student by the student's grade placement committee established under Subsection (c). Deletes existing text requiring the district to provide that accelerated instruction regardless of whether the student has been promoted or retained.

(f-1) Creates this subsection from existing text. Requires that the educational plan developed under Subsection (f)(1) be designed to enable the student to perform at the appropriate grade level by the conclusion of the subsequent school year.

(f-2) Requires the superintendent of the district or the superintendent's designee, if a student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a) fails in the subsequent school year to perform satisfactorily on an assessment instrument in the same subject, to meet with the student's accelerated learning committee to:

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

(2) determine, in order to ensure the student performs satisfactorily on the assessment instrument at the next opportunity for the student to be administered the assessment instrument, whether the educational plan developed for the student under Subsection (f) is required to be modified to provide the necessary accelerated instruction for that student and whether any additional resources are required for that student.

(i) Requires the admission, review, and dismissal committee of a student who participates in a district's special education program under Subchapter A (Special Education Program), rather than Subchapter B (Bilingual Education and Special Language Programs), Chapter 29 (Educational Programs), and who does not perform satisfactorily on an assessment instrument specified under Subsection (a) and administered under Section 39.023(a) or (b) to determine the manner in which the student will participate in an accelerated instruction program under this section, rather than whether the student will be promoted or retained under this section.

(k) Requires the commissioner to adopt rules as necessary to implement this section. Deletes existing text requiring the commissioner to adopt rules as necessary to implement this section, including rules concerning when school districting are required to administer assessment instruments required under this section and which administration of the assessment instruments will be used for purposes of Section 39.054 (Methods and Standards for Evaluating Performance).

(n) Requires a student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a) and is promoted to the next grade level, rather than is promoted by a grade placement committee under this section, to be assigned at that next grade level in each subject in which the student failed to perform satisfactorily on an assessment instrument specified under Subsection (a) to a teacher who meets all state and federal qualifications to teach that subject and grade.

SECTION 3. Amends Section 28.025(c), Education Code, to authorize a student, in other cases, to graduate and receive a diploma only if the student successfully completes the curriculum requirements identified by the State Board of Education (SBOE) under Subsection (a) (relating to requiring SBOE, by rule, to determine certain curriculum requirements) and complies with Sections 39.02304 and 39.025 (Secondary-Level Performance Required).

SECTION 4. Amends Section 39.023(a), Education Code, as effective September 1, 2017, as follows:

(a) Requires the Texas Education Agency (TEA) to adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, and science, rather than in reading, writing,

mathematics, social studies, and science. Deletes existing text requiring all students to be assessed in social studies in grade eight and any other subject and grade required by federal law. Redesignates existing text under Subdivision (5) to Subdivision (4). Makes a nonsubstantive change.

SECTION 5. Amends Section 39.023(c), Education Code, as follows:

(c) Requires TEA, rather than SBOE, to administer the assessment instruments. Requires the commissioner, with input from school districts, rather than SBOE, to adopt a certain schedule. Deletes existing text requiring TEA to adopt end-of-course assessment instruments for United States history, among other courses. Makes nonsubstantive changes.

SECTION 6. Amends Section 39.023(c-3), Education Code, effective September 1, 2017, as follows:

(c-3) Requires the commissioner, with input from school districts, to adopt a schedule for the administration of assessment instruments under this section that minimizes the disruption of classroom instruction and maximizes available instruction time by scheduling the spring administration of assessment instruments to occur as close to the end of the semester as possible. Deletes existing text requiring SBOE, in adopting a schedule for the administration of assessment instruments under this section, to require that assessment instruments administered under Subsection (a) (relating to requiring TEA to adopt or develop certain criterion-referenced assessment instruments) be administered on a schedule so that the first assessment instrument is administered at least two weeks later than the date on which the first assessment instrument was administered under Subsection (a) during the 2006-2007 school year, and the spring administration of end-of-course assessment instruments under Subsection (c) (relating to requiring a certain campus implement updated targeted improvement plans approved by the commissioner) occur in each school district not earlier than the first full week in May, except that the spring administration of the end-of-course assessment instruments in English I and English II must be permitted to occur at an earlier date.

SECTION 7. Amends Section 39.023(e), Education Code, as effective September 1, 2017, as follows:

(e) Requires TEA, at least every third year, rather than requires TEA, at least every third year, under rules adopted by SBOE, to release the questions and answer keys to certain assessment instruments. Requires TEA to also release, rather than to also release under SBOE rule, each question that is no longer being field-tested and that was not used to compute a student's score. Deletes existing text requiring TEA, during the 2014-2015 and 2015-2016 school years, to release the questions and answer keys to assessment instruments as described by this subsection each year.

SECTION 8. Amends Section 39.02301, Education Code, by amending Subsections (a), (b), (h), and (j) and adding Subsection (k), as follows:

(a) Deletes existing text applying this subsection during the 2015-2016 school year.

(b) Makes a conforming and a nonsubstantive change.

(h) Requires TEA, not later than September 1 of each even-numbered year, rather than September 1 of each year in 2017 and 2018, to prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over primary and secondary education a certain report. Deletes existing text requiring TEA, not later than September 1, 2016, to prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over primary and secondary education a

report covering the study of the development of the writing assessment method under Subsection (a).

(j) Requires TEA, with input from school districts participating in the pilot program, not later than September 1, 2021, to modify the method for assessing students in writing in grades four and seven and in English I and English II secondary-level courses, based on the writing assessment method developed under this section.

(k) Creates this subsection from existing text. Provides that this section expires September 1, 2021, rather than September 1, 2019.

SECTION 9. Amends Subchapter B, Chapter 39, Education Code, by adding Section 39.02304, as follows:

Sec. 39.02304. CIVICS TEST. (a) Requires the commissioner to adopt rules requiring a school district to administer a civics test to a student in the foundation high school program under Section 28.025 (High School Diploma and Certificate; Academic Achievement Record). Prohibits a student from receiving a high school diploma until the student has performed satisfactorily on the civics test.

(b) Requires that the civics test consist of all of the questions on the civics test administered by the United States Citizenship and Immigration Services as part of the naturalization process under the federal Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.). Requires that the questions be presented in a multiple-choice format.

(c) Requires a student, to perform satisfactorily on the civics test, to answer at least 70 percent of the questions correctly.

(d) Requires that a school district administer the civics test to a student when the school counselor or the teacher of the United States history course in which the student is enrolled, if applicable, determines that the student is prepared for the test.

(e) Requires the admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, to make certain determinations.

(f) Requires the commissioner to adopt rules regarding the administration of the civics test. Requires that the rules:

(1) require:

(A) the test to be administered electronically in the presence of a teacher, teacher's aide, proctor, or campus testing coordinator and be scored by that person or by the school district; and

(B) the results of the test to be submitted to the agency not later than the last instructional day of the school year in which the test is administered; and

(2) not:

(A) restrict the high school grade level at which a student may take the civics test; or

(B) limit the number of attempts a student may make to perform satisfactorily on the test.

(g) Provides that, for purposes of the public school accountability system, a reference in this code to an assessment instrument under Section 39.023(c) includes the civics test. Provides that performance at the level required under Subsection (c) of this section is considered satisfactory performance for purposes of Section 39.0241(a) (relating to requiring the commissioner to determine the level of performance necessary to be considered satisfactory), and the commissioner is required to determine the level of performance considered to indicate college readiness for purposes of Section 39.0241(a-1) (relating to requiring the commissioner of education to determine the level of performance necessary to indicate certain college readiness). Provides that to the extent of a conflict between this section and any other provision of law, this section controls.

SECTION 10. Amends Section 39.025, Education Code, by amending Subsections (c-1) and (f) and adding Subsection (f-1), as follows:

(c-1) Prohibits a school district from administering a general subject assessment instrument required for graduation administered under this section as this section existed before September 1, 2007, rather than September 1, 1999. Deletes existing text prohibiting the district from administering to the student an assessment instrument or a part of an assessment instrument that assesses a subject that was not assessed in an assessment instrument required for graduation administered under this section as this section existed before September 1, 1999. Makes a nonsubstantive change.

(f) Requires that the rules provide for the end-of-course assessment instruments adopted under Section 39.023(c) to be administered beginning with students enrolled in, rather than entering, the ninth grade for the first time during the 2011-2012 school year. Provides that during the period under which the transition to end-of-course assessment instruments is made:

(1) makes no changes to this subdivision;

(2) a student subject to Subdivision (1) is prohibited from receiving a high school diploma unless the student has performed satisfactorily, as determined by the commissioner under Subsection (f-1), on the SAT, the ACT, or the Texas Success Initiative (TSI) diagnostic assessment, rather than on each required assessment instrument administered under Section 39.023(c) as that section existed before amendment by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007.

(f-1) Requires the commissioner to determine the level of performance considered to be satisfactory on the SAT, the ACT, and the Texas Success Initiative (TSI) diagnostic assessment for a student described by Subsection (f)(1) to qualify for a high school diploma. Requires the commissioner, in determining satisfactory performance, to ensure that the level of performance determined under this subsection as satisfactory is equivalent to the level of performance required under Subsection (a) for satisfactory performance on an end-of-course assessment instrument. Provides that, notwithstanding Subsection (f), the commissioner is not required to retain, administer, or use assessment instruments described by Subsection (f)(1) after September 1, 2017.

SECTION 11. Amends Section 39.203(c), Education Code, as follows:

(c) Requires a campus that satisfies the criteria developed under Section 39.204 (Campus Distinction Designation Criteria; Committees), in addition to the distinction designations described by Subsections (a) (relating to certain rules established by the commissioner) and (b) (relating to establishing a separate committee to develop certain criteria), to be awarded a distinction designation by the commissioner for outstanding performance in academic achievement in reading, mathematics, or science, rather than in English language arts, mathematics, science, or social studies.

SECTION 12. Amends Section 39.301(c), Education Code, as follows:

(c) Requires that indicators for reporting purposes include:

(1) through (4) makes no changes to these subdivisions;

(5) the percentage of students, aggregated by grade level, provided accelerated instruction under Section 28.0211, rather than Section 28.0211(c) (relating to requiring the school district to provide certain student accelerated instruction) the results of assessment instruments administered under that section, rather than the percentage of students promoted through the grade placement committee process under Section 28.0211, the subject of the assessment instrument on which each student failed to perform satisfactorily under each performance standard under Section 39.0241 (Performance Standards), and the performance of those students in the subsequent school year, rather than the school year following that promotion, on the assessment instruments required under Section 39.023;

(6) through (12) makes no changes to these subdivisions.

SECTION 13. Amends Section 51.3062(q-1), Education Code, as follows:

(q-1) Exempts a student who has demonstrated the performance standard for college readiness as provided by Section 28.008 (Advancement of College Readiness in Curriculum) on the postsecondary readiness assessment instruments adopted under Section 39.0238 (Adoption and Administration of Postsecondary Readiness Assessment Instruments) for Algebra II and English III, as that section existed before repeal by H.B. 515, Acts of the 85th Legislature, Regular Session, 2017, from the requirements of this section with respect to those content areas.

SECTION 14. Repealer: Section 7.102(c)(5) (relating to SBOE establishing a standard of performance considered satisfactory on student assessment instruments), Education Code.

Repealers: Sections 28.0211(a-2) (relating to requiring a student who fails to perform satisfactorily on a certain assessment instrument complete accelerated instruction), (b), (d) (relating to parental or guardian notification of accelerated instruction), (e), (m) (relating to the commissioner's certification regarding certain funds), and (m-1) (relating to the commissioner's consideration of Foundation School Program funds), Education Code.

Repealer: Section 39.0238 (Adoption and Administration of Postsecondary Readiness Assessment Instruments), Education Code.

SECTION 15. (a) Provides that, except as provided by Subsection (b) of this section, this Act applies beginning with the 2009-2010 school year.

(b) Provides that Section 28.025(c), Education Code, as amended by this Act, and Section 39.02304, Education Code, as added by this Act, apply beginning with students who enter the ninth grade during the 2018-2019 school year.

SECTION 16. Effective date: upon passage or September 1, 2017.