By: Schoolcraft H.B. No. 1278

A BILL TO BE ENTITLED

AN ACT

relating to the promotion of a public school student from the third grade to the fourth grade, including reading proficiency requirements and accelerated instruction for certain students.

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

SECTION 1. Section 28.021, Education Code, is amended by adding Subsections (a-1) and (a-2) and amending Subsection (c) to read as follows:

(a-1) In addition to the requirement under Subsection (a) and notwithstanding Subsection (c), a student enrolled in the third grade may not be promoted to the fourth grade unless the student:

(1) performs satisfactorily, as determined by the commissioner under Section 39.0241(a), on the end-of-year assessment instrument in reading language arts administered to the student under Section 39.023(a) or (l);

(2) demonstrates reading proficiency at or above the third grade level on an alternative reading assessment instrument approved by the commissioner under Section 28.02112(b); or

(3) is promoted for good cause under Section 28.02112.

(a-2) A school district shall retain in the third grade a student who does not satisfy Subsection (a-1). For each student retained under this subsection, the district shall provide the accelerated instruction and develop the accelerated education plan required under Section 28.0211 and provide the reading instruction

and other supports required under Section 28.02112.

(c) Except as provided by Subsection (a-1), in ~~[In]~~ determining promotion under Subsection (a), a school district shall consider:

(1) the recommendation of the student's teacher;

(2) the student's grade in each subject or course;

(3) the student's score on an assessment instrument administered under Section 39.023(a), (b), or (l), to the extent applicable; and

(4) any other necessary academic information, as determined by the district.

SECTION 2. Subchapter B, Chapter 28, Education Code, is amended by adding Section 28.02112 to read as follows:

Sec. 28.02112. THIRD GRADE READING PROFICIENCY REQUIRED FOR PROMOTION; GOOD CAUSE EXEMPTIONS. (a) In this section, "emergent bilingual student" has the meaning assigned by Section 29.052.

(b) The commissioner shall approve one or more alternative reading assessment instruments that may be administered to a student for purposes of Section 28.021(a-1)(2) and shall determine for each approved instrument the level of performance that demonstrates reading proficiency at or above the third grade level. A school district shall administer an assessment instrument approved under this subsection to each student enrolled in the third grade who does not perform satisfactorily on the assessment instrument described by Section 28.021(a-1)(1):

(1) after the student has been provided accelerated instruction under Section 28.0211 during the summer following the

school year in which the student was enrolled in the third grade; and

(2) before the first day of instruction of the following school year.

(c) A student who does not satisfy Section 28.021(a-1)(1) or (2) may be promoted to the fourth grade only for good cause. A good cause exemption under this subsection is limited to a student who:

(1) is an emergent bilingual student who has received less than two years of instruction in a bilingual education or special language program under Subchapter B, Chapter 29, or who is exempt from the administration of an assessment instrument under Section 39.027;

(2) is administered an alternative assessment instrument under Section 39.023(b);

(3) participates in a special education program under Subchapter A, Chapter 29, or receives services under a plan developed under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and whose individualized education program or plan reflects that the student:

(A) has received intensive reading intervention under Section 28.0064 or accelerated instruction under Section 28.0211 in reading language arts for more than two years and continues to demonstrate a deficiency in reading; or

(B) was previously retained in kindergarten or the first, second, or third grade;

(4) is provided services for dyslexia or a related disorder under Section 38.003 and has received intensive reading

intervention under Section 28.0064 or accelerated instruction under Section 28.0211 in reading language arts for two or more years; or

(5) has received intensive reading intervention under Section 28.0064 or accelerated instruction under Section 28.0211 in reading language arts for two or more years, continues to demonstrate a deficiency in reading, and was previously retained in kindergarten or the first, second, or third grade for a total of two years.

(d) In determining whether a student described by Section 28.021(b) is covered by a good cause exemption under Subsection (c), the campus principal and the superintendent of the school district shall consider the student's potential for achievement or proficiency in reading as required by Section 28.021(b).

(e) A student may be promoted to the fourth grade under Subsection (c) only as follows:

(1) the student's teacher shall submit to the campus principal documentation that:

(A) states that promotion of the student is appropriate;

(B) identifies the good cause exemption requested; and

(C) demonstrates, based on the student's record, that the student is covered by the identified good cause exemption;

(2) the principal shall review and discuss the documentation with the teacher and the student's parent or guardian and determine whether the student should be promoted;

(3) if the principal determines that the student should be promoted, the principal shall recommend the promotion in writing to the superintendent of the school district; and

(4) the superintendent shall accept or reject the principal's recommendation in writing.

(f) A student promoted to the fourth grade under Subsection (c) must be provided an accelerated education plan under Section 28.0211(f) that provides intensive reading instruction and intervention that is:

(1) informed by diagnostic information regarding the student's specific reading deficiencies; and

(2) delivered using reading strategies supported by evidence of effectiveness in improving reading among students with persistent reading difficulties.

(g) A school district shall assist each campus and teacher in the district in implementing reading strategies supported by evidence of effectiveness in improving reading among students with persistent reading difficulties.

(h) For each student retained in the third grade under Section 28.021(a-2), a school district shall:

(1) provide not less than 90 minutes each school day of reading instruction that uses methods supported by evidence of effectiveness, which must be provided in addition to accelerated instruction provided under Section 28.0211;

(2) assign the student to a classroom teacher who:

(A) holds a designation under Section 21.3521; or

(B) has demonstrated effectiveness in improving

student achievement in reading, as determined by the district;

(3) provide to the student's parent or guardian, in the manner described by Section 28.0211(h), written notice that:

(A) states that the student has been retained in the third grade and the reason for the retention;

(B) describes the reading instruction and other supports the district will provide to the student; and

(C) includes strategies the parent or guardian may use to assist the student in achieving reading proficiency; and

(4) monitor the student's progress in accordance with the accelerated education plan developed for the student under Section 28.0211(f).

(i) The requirement under Subsection (h)(1) is not subject to a request or election under Section 28.0064(g) or 28.0211(a-9).

(j) A school district may promote to the fourth grade during a school year a student retained in the third grade under Section 28.021(a-2) if:

(1) the student demonstrates reading proficiency at or above the third grade level on an assessment instrument approved under Subsection (b); and

(2) the campus principal recommends the promotion in writing to the superintendent of the district and the superintendent accepts the recommendation in writing.

(k) Each school district shall provide annually, in the manner described by Section 28.0211(h), to the parent or guardian of each student enrolled in kindergarten or the first, second, or third grade in the district written notice of:

(1) the promotion requirement under Section 28.021(a-1);

(2) the reading interventions and accelerated instruction available to the student under Sections 28.0064, 28.0211, and 28.02111; and

(3) the consequences of retention under Section 28.021(a-2).

(l) This section does not affect the right of a parent or guardian to elect retention of a student under Section 28.02124.

(m) Each school district shall annually report to the agency, in the form and manner prescribed by the commissioner, the number of students enrolled in the third grade in the district who were:

(1) retained under Section 28.021(a-2); and

(2) promoted to the fourth grade for good cause under Subsection (c), disaggregated by the good cause exemption applied.

(n) The agency shall annually publish a report of the information reported under Subsection (m), aggregated statewide and disaggregated by school district and campus.

(o) The commissioner shall adopt rules as necessary to implement this section.

SECTION 3. Sections 28.0211(a-7) and (b), Education Code, are amended to read as follows:

(a-7) The requirements under Subsection (a-1)(1) or (2) do not apply to a student who is retained at a grade level for the school year in which those requirements would otherwise apply, other than a student who is retained in the third grade under

Section 28.021(a-2).

(b) For each student who does not perform satisfactorily on an assessment instrument specified under Subsection (a-1) for two or more consecutive school years in the same subject area, for each student who is retained in the third grade under Section 28.021(a-2), and for each student who is promoted to the fourth grade for good cause under Section 28.02112(c), the school district the student attends shall develop an accelerated education plan as described by Subsection (f).

SECTION 4. Section 12.104, Education Code, is amended by adding Subsection (b-5) to read as follows:

(b-5) An open-enrollment charter school is subject to the student advancement requirements under Section 28.021 and the third grade reading proficiency requirements under Section 28.02112.

SECTION 5. (a) Section 28.021(a-1) and (a-2), Education Code, as added by this Act, Section 28.021(c), Education Code, as amended by this Act, Sections 28.0211(a-7) and (b), Education Code, as amended by this Act, and Section 28.02112, Education Code, as added by this Act, apply to the promotion of a student from the third grade to the fourth grade beginning with a student enrolled in the third grade during the 2028-2029 school year.

(b) Not later than January 1, 2028, the commissioner of education shall:

(1) approve one or more alternative reading assessment instruments and determine the applicable levels of performance as required by Section 28.02112(b), Education Code, as added by this Act; and

(2) adopt rules as necessary to implement Section 28.02112, Education Code, as added by this Act.

(c) A school district shall begin providing the notice required by Section 28.02112(k), Education Code, as added by this Act, with the 2027-2028 school year.

SECTION 6. This Act takes effect September 1, 2027.