

## **BILL ANALYSIS**

Senate Research Center  
87R24891 TSS-F

C.S.S.B. 2094  
By: Taylor  
Education  
5/11/2021  
Committee Report (Substituted)

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

S.B. 2094 seeks to address learning loss in Texas students, particularly in the wake of the COVID-19 pandemic, by establishing accelerated learning committees for students in third, fifth, and eighth grades who do not perform successfully on assessments required for grade advancement. The bill gives schools options to provide accelerated instruction to these students in a subsequent summer or school year, or to assign the student to a master, exemplary, or recognized teacher in the appropriate subject matter for which the student needs accelerated instruction.

S.B. 2094, as filed, also codifies in statute duties involving state assessment and transitions those duties from the State Board of Education to the commissioner of education.

(Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 2094 amends current law 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.

### **RULEMAKING AUTHORITY**

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

Rulemaking authority previously granted to the commissioner of education is rescinded in SECTION 8 (Section 28.0211, Education Code) of this bill.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; MODIFIED TEACHER ASSIGNMENT.

SECTION 2. Amends Section 28.0211, Education Code, 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), as follows:

(a) Requires a school 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, rather than the fifth grade mathematics and reading assessment instruments, under Section 39.023; or

(3) the eighth grade mathematics or reading assessment instrument, rather than the eighth grade mathematics and reading assessment instruments, under Section 39.023.

Deletes existing text prohibiting a student, except as provided by Subsection (b) (relating to requiring a school district to provide to a student who initially fails to perform satisfactorily on a certain assessment instrument at least two additional opportunities to take the assessment instrument) or (e) (relating to requiring a student who, after at least three attempts, fails to perform satisfactorily on a certain assessment instrument to be retained at the same grade level for the next school year), 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 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) Requires the school district in which the student attends school, each time a student fails to perform satisfactorily on an assessment instrument administered under Section 39.023(a) in the third, fourth, fifth, sixth, seventh, or eighth grade, to provide to the student accelerated instruction in the applicable subject area during the subsequent summer or school year and either:

(1) allow the student to be assigned a classroom teacher who is certified as a master, exemplary, or recognized teacher under Section 21.3521 (Local Optional Teacher Designation System) for the subsequent school year in the applicable subject area; or

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

(a-2) Creates this subsection from existing text. Authorizes accelerated instruction provided during the following school year under Subsection (a-1) to require participation of the student before or after normal school hours. Deletes existing text authorizing accelerated instruction to include participation at times of the year outside normal school operations.

(a-3) Prohibits a district, in providing accelerated instruction under Subsection (a-1), from removing a student, except under circumstances for which a student enrolled in the same grade level who is not receiving accelerated instruction would be removed, from:

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

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

(a-4) Requires that supplemental instruction provided by a school district under Subsection (a-1)(2):

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

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

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

- (4) be designed to assist the student in achieving satisfactory performance in the applicable grade level and subject area;
- (5) include effective instructional materials designed for supplemental instruction;
- (6) be provided to a student individually or in a group of no more than three students, unless the parent or guardian of each student in the group authorizes a larger group;
- (7) be provided by a person with training in the applicable instructional materials for the supplemental instruction and under the oversight of the school district; and
- (8) to the extent possible, be provided by one person for the entirety of the student's supplemental instruction period.

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

Deletes existing text requiring a student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a) and who is promoted to the next grade level to complete accelerated instruction required under Subsection (a-1) before placement in the next grade level. Deletes existing text prohibiting a student who fails to complete required accelerated instruction from being promoted.

(a-6) Creates this subsection from existing text. Provides that the commissioner of education (commissioner) is required to provide guidelines to school districts, rather than to districts, on researched-based best practices and effective strategies that a district is authorized to use in developing an accelerated instruction program and is authorized to provide resources to districts to assist in the provision of an accelerated instruction program.

(c) Requires that an accelerated learning committee, after a student fails to perform satisfactorily on an assessment instrument specified under Subsection (a), be established. Deletes existing text requiring the 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 that a grade placement committee, after a student fails to perform satisfactorily on an assessment instrument a second time, 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 conforming changes.

(f) Requires an accelerated learning committee described by Subsection (c), not later than the start of the subsequent school year, to develop an educational plan for the student that provides the necessary accelerated instruction to enable the student to perform at the appropriate grade level by the conclusion of the school year. 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) Requires that the educational plan under Subsection (f) be documented in writing, and that a copy be provided to the student's parent or guardian.

(f-2) Creates this subsection from existing text. Requires that the student, during the school year, be monitored to ensure that the student is progressing in accordance with the plan developed under Subsection (f).

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

(f-4) 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 administration of 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.

(f-5) Provides that the superintendent's designee under Subsection (f-4) is authorized to be an employee of a regional education service center and is prohibited from being a person who served on the student's accelerated learning committee.

(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), 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) (relating to the development of certain assessment instruments) to meet to determine the manner in which the student will participate in an accelerated instruction program under Section 28.0211. Deletes existing text requiring the admission, review, and dismissal committee of a certain student to meet before the student is administered the assessment instrument for the second time. Deletes existing text requiring the committee to determine whether the student will be promoted in accordance with Subsection (i-1) (relating to the student being promoted based on certain progress criteria) or retained under Section 28.0211.

(k) Authorizes the commissioner to adopt rules as necessary to implement Section 28.0211. Deletes existing text requiring the commissioner to adopt rules as necessary to implement Section 28.0211, including rules concerning when school districts are required to administer assessment instruments required under Section 28.0211 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 a student who is promoted by a grade placement committee under Section 28.0211, except as provided by Subsection (n-1), to be assigned in the subsequent school year in each subject in which the student failed to perform satisfactorily on an assessment instrument specified under Subsection (a) to an appropriately certified teacher who meets all state and federal qualifications to teach that subject and grade.

(n-1) Authorizes the commissioner, in a manner consistent with federal law and notwithstanding any other law, to waive the requirement under Subsection (n) regarding

the assignment of a student to an appropriately certified classroom teacher on the request of a school district.

SECTION 3. Amends Section 28.0217, Education Code, as follows:

Sec. 28.0217. ACCELERATED INSTRUCTION FOR HIGH SCHOOL STUDENTS. (a) Creates this subsection from existing text. Deletes existing text requiring the school district in which a student who fails to perform satisfactorily on a certain assessment attends school to use funds appropriated for accelerated instruction under Section 28.0211 to provide a student instrument accelerated instruction in the applicable subject area.

(b) Creates this subsection from existing text. Provides that accelerated instruction provided under Section 28.0217:

(1) creates this subdivision from existing text and makes no further changes; and

(2) is required to comply with the requirements for accelerated instruction provided under Section 28.0211.

SECTION 4. Amends Section 39.025(b-1), Education Code, to require a school district to provide each student who fails to perform satisfactorily as determined by the commissioner under Section 39.0241(a) (relating to the requirement that the commissioner determine satisfactory standards on the assessment instruments) on an end-of-course assessment instrument with accelerated instruction under Section 28.0217 in the subject assessed by the assessment instrument.

SECTION 5. Amends Section 39.301(c), Education Code, as follows:

(c) Requires that indicators for reporting purposes include certain information, including the percentage of students, aggregated by grade level, provided accelerated instruction under Section 28.0211, rather than under Section 28.0211(c), the results of assessment instruments administered under that section, 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. Deletes existing text requiring that indicators for reporting purposes include the percentage of students promoted through the grade placement committee process under Section 28.0211.

SECTION 6. Amends Subchapter C, Chapter 48, Education Code, by adding Section 48.1102, as follows:

Sec. 48.1102. ACCELERATED LEARNING AND SUSTAINMENT OUTCOMES BONUS. (a) Provides that, for purposes of this section, a student is a:

(1) successfully accelerated student if the student:

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

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

(2) sustained accelerated student if the student:

(A) performs at the level determined under Section 39.0241(a-1) or the equivalent to determine preparedness for the student's next

grade level or better on an assessment instrument administered under Section 39.023(a);

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

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

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

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

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

(c) Entitles a school district or open-enrollment charter school, for each sustained accelerated student, to the following annual outcomes bonus:

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

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

(d) Requires the commissioner to establish, using a percentile determined by the commissioner based on the median performance of school districts and open-enrollment charter schools on assessments administered under Section 39.023(a) during the 2017-2018 school year, a threshold percentage of successfully accelerated students who are not educationally disadvantaged and successfully accelerated students who are educationally disadvantaged.

(e) Requires the commissioner, each year, to determine for each school district and open-enrollment charter school the minimum number of successfully accelerated students the district or school is required to have in order for the district to achieve the percentage equal to the threshold percentage established for that group of students described by Subsection (b).

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

SECTION 7. Amends Section 51.338(d), Education Code, to provide that 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. 4545, Acts of the 87th Legislature, Regular Session, 2021, is exempt from the requirements of Subchapter F-1 (Texas Success Initiative) with respect to those content areas.

SECTION 8. Repealer: Section 28.0211(b) (relating to additional testing opportunities in certain circumstances), Education Code.

Repealer: Section 28.0211(d) (relating to certain parental notifications), Education Code.

Repealer: Section 28.0211(e) (relating to student retention due to failure to perform satisfactorily on a certain assessment instrument), Education Code.

Repealer: Section 28.0211(i-1) (relating to promoting a student to the next grade level under certain circumstances), Education Code.

Repealer: Section 28.0211(i-2) (relating to certain parental notification), Education Code.

Repealer: Section 28.0211(m) (relating to a requirement that the commissioner certify whether certain funds are appropriated sufficiently), Education Code.

Repealer: Section 28.0211(m-1) (relating to certain funds being inapplicable for Subsection (m)), Education Code.

Repealer: Section 39.0231 (Reporting of Results of Certain Assessments), Education Code.

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

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

SECTION 10. Provides that this Act applies beginning with the 2021-2022 school year.

SECTION 11. Effective date: upon passage or September 1, 2021.