

## **BILL ANALYSIS**

Senate Research Center  
88R4198 KJE-F

S.B. 1261  
By: Paxton  
Education  
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As Filed

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

For over 20 years, when students score below grade level on the state's end-of-year test (currently STAAR), Texas law has required school districts to provide "accelerated instruction" in an effort to help students pass the test the following year and get them caught up.

In the wake of the COVID-19 pandemic, the 87th Legislature, Regular Session, passed H.B. 4545, which prescribed specific "supplemental instruction" tutoring requirements. School districts reported multiple implementation challenges, including meeting requirements and staffing concerns.

This bill addresses the implementation barriers and complications experienced by school districts to provide additional flexibility and local control for schools without compromising the quality or availability of the much-needed high-impact tutoring for students recovering from COVID learning loss.

As proposed, S.B. 1261 amends current law relating to accelerated instruction provided to public school students who fail to achieve satisfactory performance on certain assessment instruments.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education in SECTION 2 (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 INSTRUCTION; MODIFIED TEACHER ASSIGNMENT.

SECTION 2. Amends Section 28.0211, Education Code, by amending Subsections (a), (a-1), (a-2), (a-3), (a-4), (f), (f-1), (f-2), (f-3), (h), (i), (j), and (n) and adding Subsections (a-7), (a-8), (a-9), (a-10), (b), (i-1), and (i-2), as follows:

(a) Requires the school district in which a student attends school, each time the student fails to perform satisfactorily on an assessment instrument administered under Section 39.023(a) (relating to requiring the Texas Education Agency (TEA) to adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills) or (l) (relating to requiring all students to be assessed in mathematics, annually in grades three through eight) in the third, fourth, fifth, sixth, seventh, or eighth grade or on an end-of-course assessment instrument administered under Section 39.023(c) (relating to requiring TEA to adopt end-of-course assessment instruments for certain secondary-level courses), to provide to the student accelerated instruction in the applicable subject area during the subsequent summer or school year. Deletes existing text requiring a school district to establish an accelerated learning committee described by Subsection (c) for each student who does not perform satisfactorily on the third grade mathematics or reading assessment instrument under Section 39.023 (Adoption and Administration of Instruments), the fifth grade

mathematics or reading assessment instrument under Section 39.023, or the eighth grade mathematics or reading assessment instrument under Section 39.023.

(a-1) Requires the school district in which a student attends school, subject to Subsection (a-7), each time the student fails to perform satisfactorily on an assessment instrument specified under Subsection (a) that is a mathematics or reading assessment instrument or the English I, English II, or Algebra I end-of-course assessment instrument, to take certain actions.

(a-2) and (a-3) Makes conforming changes to these subsections.

(a-4) Provides that if a district receives funding under Section 29.0881 (Strong Foundations Grant Program) or 48.104 (Compensatory Education Allotment), the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (Div. M, Pub. L. No. 116-260), or the American Rescue Plan Act of 2021 (Pub. L. No. 117-2), then supplemental instruction provided by a school district under Subsection (a-1)(2) is required to:

(1)-(2) makes no changes to these subdivisions;

(3) be provided during the subsequent summer or school year, rather than be provided for no less than 30 total hours during the subsequent summer or school year:

(A) to each student for no less than 15 hours;

(B) for an average of no less than 30 hours per student for all students receiving supplemental instruction; and

(C) unless the instruction is provided to a student fully during summer, no less than once per week during the school year, rather than include instruction no less than once per week during the school year, except as otherwise provided by commissioner of education (commissioner) rule to account for school holidays or shortened school weeks;

(4)-(5) makes no changes to these subdivisions;

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

(7)-(8) makes no changes to these subdivisions.

(a-7) Provides that the requirements under Subsection (a-1) do not apply to a student who is retained at a grade level for the school year in which those requirements would otherwise apply.

(a-8) Authorizes a parent or guardian of a student to whom supplemental instruction will be provided under Subsection (a-1)(2) and who either was administered and failed to perform satisfactorily on an assessment instrument described by Subsection (a) or was administered a beginning-of-year assessment instrument aligned with the essential knowledge and skills for the applicable subject area to elect to reduce or remove a requirement for that instruction under Subsection (a-4) by submitting a written request to the school district. Prohibits a school district from encouraging or directing a parent or guardian to make an election under this subsection that would allow the district to not provide supplemental instruction to the student.

(a-9) Requires TEA to approve an automated or other augmented method for providing supplemental instruction under Subsection (a-1)(2) that is authorized to be used in lieu of some or all of the individual or group instruction required under Subsection (a-4)(6), as

appropriate for the applicable grade level and subject area and a student's academic deficiency. Authorizes TEA to approve a method under this subsection only if evidence indicates that the method is more effective than the individual or group instruction required under Subsection (a-4)(6). Requires the commissioner to adopt rules regarding when a method approved under this subsection is authorized to be used and the requirements under Subsection (a-4) for which the method is authorized to be substituted.

(a-10) Provides that a school district that is required to provide to a student accelerated instruction under Subsection (a) or supplemental instruction under Subsection (a-1)(2) is not required to provide additional instruction under either subsection to the student based on the student's failure to perform satisfactorily on an assessment instrument administered as an optional assessment in the same subject area in which the district is required to provide the student the accelerated or supplemental instruction.

(b) Requires the school district the student attends to develop an accelerated education plan as described by Subsection (f) for each student who does not perform satisfactorily on an assessment instrument described by Subsection (a-1) for two or more consecutive school years.

(f) Requires a school district, not later than the start of the subsequent school year, to develop an accelerated education plan for each student to whom Subsection (b) applies that provides the necessary accelerated instruction to enable the student to perform at the appropriate grade level by the conclusion of the school year. Provides that the plan:

(1) is required to:

(A) identify the reason the student did not perform satisfactorily on the applicable assessment instrument described by Subsection (a-1); and

(B) notwithstanding Subsections (a-4)(3)(A) and (B), require the student to be provided with no less than 30 hours, or a greater number of hours if appropriate, of supplemental instruction under Subsection (a-4) for each consecutive school year in which the student does not perform satisfactorily on the assessment instrument in the applicable subject area described by Subsection (a-1); and

(2) is authorized to require that, as appropriate to ensure the student performs satisfactorily on the assessment instrument in the applicable subject area described by Subsection (a-1) at the next administration of the assessment instrument:

(A) notwithstanding Subsection (a-4)(6), the student be provided supplemental instruction under Subsection (a-4) individually or in a group of fewer than four students;

(B) the district expand the times in which supplemental instruction under Subsection (a-4) is available to the student;

(C) the student be assigned for the school year to a specific teacher who is better able to provide accelerated instruction; and

(D) the district provide any necessary additional resources to the student.

Deletes existing text requiring 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.

(f-1) Requires that the accelerated education plan, rather than the educational plan, under Subsection (f) be documented in writing, and a copy be provided to the student's parent or guardian.

(f-2) Requires the student, during the school year, to be monitored to ensure that the student is progressing in accordance with the accelerated education 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 accelerated education plan, rather than an educational plan, developed under Subsection (f).

(h) Requires the district, in each instance under this section in which a school district is specifically required to provide notice or a written copy to a parent or guardian of a student, to make a good faith effort to ensure that such notice or copy is provided either in person or by regular mail and that the notice or copy is clear and easy to understand and is written in English or the parent or guardian's native language.

(i) Requires an admission, review, and dismissal committee, for a student for whom the committee determines participation in the required tutoring model for supplemental instruction under Subsection (a-4) is not appropriate, to review the student's individualized education plan and adjust the plan as appropriate to target the areas in which the student did not perform satisfactorily on the assessment instrument. Deletes existing text requiring 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, 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 requiring TEA to develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program) to meet to determine the manner in which the student will participate in an accelerated instruction program under Section 28.0211 (Accelerated Learning Committee; Accelerated Instruction; Modified Teacher Assignment).

(i-1) Authorizes a student's admission, review, and dismissal committee or committee established under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), as applicable, to determine that the student is authorized to be provided the accelerated instruction when the student attends school in an on-campus instructional setting if a student who attends school in a homebound or other off-campus instructional arrangement is unable to participate in an accelerated instruction program required under this section due to the student's medical condition. Provides that the school district is not required to provide the accelerated instruction to the student for that school year if the student's medical condition prevents the student from attending school in an on-campus instructional setting for the school year during which the accelerated instruction is required to be provided to the student.

(i-2) Requires the admission, review, and dismissal committee of a student who participates in a district's special education program under Subchapter A, Chapter 29, and for whom an accelerated education plan is required under Subsection (b) to develop the accelerated education plan for the student and to determine the manner in which the student will participate in an accelerated instruction program under this section. Provides that the accelerated education plan, to the extent consistent with federal law, is prohibited from being considered to be part of the student's individualized education program and is not subject to the requirements of Section 29.005 (Individualized Education Program) or 20 U.S.C. Section 1414(d) relating to the development of an individualized education program. Authorizes a parent or guardian of a student for whom an accelerated education plan is developed under this subsection to contest the content or implementation of the plan only through the grievance procedure adopted under Subsection (f-3).

(j) Requires a school district or open-enrollment charter school to provide students required to attend accelerated programs under this section with transportation to those programs if the programs occur outside of regular school hours, unless the district or school does not operate, or contract or agree with another entity to operate, a transportation system.

(n) Requires a student for whom an accelerated education plan is required to be developed under Subsection (b), except as requested under Subsection (a-5) or provided by Subsection (n-1) (relating to authorizing the commissioner 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), to be assigned, in each school year and subject covered by the accelerated education plan, to an appropriately certified teacher who meets all state and federal qualifications to teach that subject and grade. Deletes existing text requiring a student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a) and is promoted to the next grade level, 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.

SECTION 3. Amends Section 29.0881(e), Education Code, as follows:

(e) Deletes existing text authorizing a school district or open-enrollment charter school that receives grant funds under Section 29.0881 to use the funds to pay for accelerated instruction provided under Section 28.0217 (Accelerated Instruction for High School Students).

SECTION 4. Amends Section 39.025(b-1), Education Code, as follows:

(b-1) Requires a school district to provide each student who fails to perform satisfactorily as determined by the commissioner under Section 39.0241(a) (relating to requiring the commissioner to determine the level of performance considered to be satisfactory on the assessment instruments) on an end-of-course assessment instrument with accelerated instruction under Section 28.0211, rather than Section 28.0217, in the subject assessed by the assessment instrument.

SECTION 5. Repealers: Sections 28.0211(c) (relating to requiring an accelerated learning committee to be established after a student fails to perform satisfactorily on certain assessment instruments) and (f-4) (relating to requiring the superintendent of the district, or the superintendent's designee, to meet with the student's accelerated learning committee if a student who fails to perform satisfactorily on a specific assessment instrument fails in the subsequent school year to perform satisfactorily on an assessment instrument in the same subject), Education Code.

Repealers: Sections 28.0211(f-5) (relating to authorizing the superintendent's designee to be an employee of a regional education service center and prohibiting the superintendent's designee from being a person who served on the student's accelerated learning committee) and (o) (relating to providing that the section does not require the administration of a fifth or eighth grade assessment instrument in a certain subject to a student enrolled in the fifth or eighth grade if the student meets certain criteria), Education Code.

Repealers: Section 20.0211(p) (relating to prohibiting a student as described by Subsection (o) from being denied promotion on the basis of failure to perform satisfactorily on an assessment instrument not required to be administered to the student) and Section 28.0217 (Accelerated Instruction for High School Students), Education Code.

SECTION 6. Provides that changes in law made by this Act to Section 28.0211, Education Code, apply beginning with assessment instruments administered during the 2023 spring semester.

SECTION 7. Provides that the repeal by this Act of Section 28.0217, Education Code, applies beginning with the 2023–2024 school year.

SECTION 8. Effective date: upon passage or September 1, 2023.