

BILL ANALYSIS

Senate Research Center

H.B. 4545
By: Dutton (Taylor)
Education
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There are concerns that the grade placement committee process, currently required for the promotion of a student who does not perform satisfactorily on certain statewide standardized tests, may not be functioning as intended and that the current system of accelerated instruction, intended to assist students in achieving satisfactory grade-level performance, is ineffective. H.B. 4545 seeks to address these concerns by eliminating grade promotion that is reliant on passage of standardized tests and providing for accelerated instruction standards, including establishing a related outcomes bonus. The bill also establishes the strong foundations grant program to assist the implementation of high-quality instruction, materials, and support structures.

H.B. 4545 amends current law relating to the assessment of public school students, the establishment of a strong foundations grant program, and providing accelerated instruction for students who fail to achieve satisfactory performance on certain assessment instruments.

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 is expressly granted to the commissioner of education in SECTION 8 (Section 39A.064, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner of education is rescinded in SECTION 10 (Section 28.0211, Education Code) of this bill.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

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 specified at least two additional opportunities to take the assessment instrument) or (e) (relating to requiring a student who fails to perform satisfactorily on an 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. Makes nonsubstantive changes.

(a-1) Requires the school district in which a student who 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 certain appropriate criterion-referenced assessment instruments) in certain grade levels attends school 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, if a district receives funding under Section 29.0881, 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):

(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 the 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.

(a-6) Creates this subsection from existing text. Requires the commissioner of education (commissioner) to provide resources to districts to assist in the provision of an accelerated instruction program. Makes a nonsubstantive change.

(c) Requires an accelerated learning committee, after a student fails to perform satisfactorily on an assessment instrument specified under Subsection (a), to be established. Requires the accelerated learning committee, rather than the grade placement committee, to 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. Deletes existing text requiring the school district in which a student fails to perform satisfactorily on an assessment instrument specified under Subsection (a) attends school, each time the 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 Section 28.0211 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), 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. Makes nonsubstantive changes.

(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 and makes a conforming change.

(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:

(A) 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

(B) any additional resources are required for that student.

(f-5) Provides that the superintendent's designee under Subsection (f-4):

(1) is authorized to be an employee of a regional education service center; and

(2) is prohibited from being a person who served on the student's accelerated learning committee.

(i) Deletes existing text requiring the admission, review, and dismissal committee of a student who participates in a district's special education program and who does not perform satisfactorily on an assessment instrument specified under Subsection (a) and administered under Section 39.023(a) or (b) 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) or retained under Section 28.0211.

(k) Authorizes, rather than requires, the commissioner to adopt rules as necessary to implement Section 28.0211. Deletes existing text requiring the commissioner to adopt rules, 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, 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. Makes nonsubstantive changes.

(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.

Deletes existing text of former Subsection (a-2) 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.

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 a school district to provide to the student accelerated instruction in the applicable subject area using funds appropriated for accelerated instruction under Section 28.0211.

(b) Creates this subsection from existing text. Requires that accelerated instruction provided under this section comply with the requirements for accelerated instruction provided under Section 28.0211. Makes nonsubstantive changes.

SECTION 4. Amends Subchapter C, Chapter 29, Education Code, by adding Section 29.0881, as follows:

Sec. 29.0881. STRONG FOUNDATIONS GRANT PROGRAM. (a) Requires the commissioner to establish and administer a strong foundations grant program for campuses or a program at a campus serving students enrolled in prekindergarten through grade five to implement a rigorous school approach that combines high-quality instruction, materials, and support structures.

(b) Requires the commissioner to adopt components that school districts, open-enrollment charter schools, and campuses of the districts or schools are required to implement under the strong foundations grant program. Requires that the components include:

- (1) use of high-quality instructional materials, curricula, and curricular tools;
- (2) use of aligned diagnostic and formative assessments;
- (3) aligned professional supports;
- (4) practices designed to ensure high-quality supports for students with disabilities;
- (5) evidence-based practices to increase and maintain parental engagement; and
- (6) measurement of fidelity of implementation of the program.

(c) Authorizes grants provided under the strong foundations grant program to be in the form of funds, in-kind resources, or both.

(d) Requires the commissioner to use funds appropriated, federal funds, and other funds available for the strong foundations grant program to assist school districts and open-enrollment charter schools in implementing the program.

(e) Authorizes a school district or open-enrollment charter school that receives grant funds under this section to use the funds to:

- (1) financially support or train or otherwise prepare educators and other staff;
- (2) pay for agreements with other entities to provide prekindergarten services; or

(3) pay for accelerated instruction provided under Section 28.0211 or 28.0217.

(f) Authorizes the commissioner to accept gifts, grants, and donations from any source, including private and nonprofit organizations, for the program. Authorizes a private or nonprofit organization that contributes to the program to receive an award under Section 7.113 (Employers for Education Excellence Award).

SECTION 5. 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 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 28.0217 in the subject assessed by the assessment instrument.

SECTION 6. Amends Section 39.301(c), Education Code, as follows:

(c) Requires that indicators for reporting purposes include the percentage of students, aggregated by grade level, provided accelerated instruction under Section 28.0211, rather than 28.0211(c), and the performance of those students in the subsequent school year 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. Makes a nonsubstantive change.

SECTION 7. Amends Section 39A.051(b), Education Code, as follows:

(b) Authorizes the commissioner, for a campus described by Subsection (a) (relating to requiring the commissioner to take certain actions if the performance of a campus is below certain standards), to the extent the commissioner determines necessary, to:

(1) and (2) makes nonsubstantive changes to these subdivisions;

(3) if applicable under Section 39A.064, require the school district to comply with all requirements of the strong foundations grant program under Section 29.0881 for the campus; or

(4) any combination of the actions described by Subdivisions (1) through (3).

SECTION 8. Amends Subchapter B, Chapter 39A, Education Code, by adding Section 39A.064, as follows:

Sec. 39A.064. **STRONG FOUNDATIONS INTERVENTION FOR CERTAIN CAMPUSES.** (a) Authorizes the commissioner, notwithstanding Section 39A.0545(b) (relating to providing that certain interventions and sanctions apply to a district or campus ordered to develop and implement a targeted improvement plan only if the district or campus is assigned certain performance ratings) or any other law, to require a school district or open-enrollment charter school to comply with all requirements of the strong foundations grant program under Section 29.0881 at a campus that:

(1) includes students at any grade level from prekindergarten through fifth grade;

(2) is assigned an overall performance rating of D or F; and

(3) is in the bottom five percent of campuses in the state based on student performance on the grade three reading assessment administered under Section 39.023(a) during the previous school year, as determined by the commissioner.

(b) Requires the commissioner, if funds are appropriated for the purpose, to award a grant under Section 29.0881 to any campus required to implement the requirements of the program under this section.

(c) Requires the commissioner to adopt rules to determine whether a school district or open-enrollment charter school is complying adequately with the requirements under this section.

SECTION 9. 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 39.0328 (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 10. Repealer: Section 28.0211(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), Education Code.

Repealer: Section 28.0211(d) (relating to require a school district to notify a student's parent or guardian of certain information), Education Code.

Repealer: Section 28.0211(e) (relating to requiring a student who fails to perform satisfactorily on an assessment instrument to be retained at the same grade level for the next school year), Education Code.

Repealer: Section 28.0211(i-1) (relating to authorizing an admission, review, and dismissal committee of a student to promote the student to the next grade level if the committee concludes that the student has made sufficient progress in certain goals), Education Code.

Repealer: Section 28.0211(i-2) (relating to requiring a school district to notify the parent or person standing in parental relation to a student enrolled in the district's special education program of the options of the admission, review, and dismissal committee if the student does not perform satisfactorily on an assessment instrument), Education Code.

Repealer: Section 28.0211(m) (relating to requiring the commissioner to certify whether certain funds have been sufficiently appropriated statewide), Education Code.

Repealer: Section 28.0211(m-1) (relating to prohibiting the commissioner from considering Foundation School Program funds except for compensatory education funds for purposes of a certification), 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 11. 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 12. Provides that this Act applies beginning with the 2021-2022 school year.

SECTION 13. Effective date: upon passage or September 1, 2021.