

By: Taylor, et al.
(Dutton)

S.B. No. 2094

Substitute the following for S.B. No. 2094:

By: Dutton

C.S.S.B. No. 2094

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the assessment of public school students, the
3 establishment of a strong foundations grant program, and providing
4 accelerated instruction for students who fail to achieve
5 satisfactory performance on certain assessment instruments.

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

7 SECTION 1. The heading to Section 28.0211, Education Code,
8 is amended to read as follows:

9 Sec. 28.0211. ACCELERATED LEARNING COMMITTEE [~~SATISFACTORY~~
10 ~~PERFORMANCE ON ASSESSMENT INSTRUMENTS REQUIRED~~]; ACCELERATED
11 INSTRUCTION; MODIFIED TEACHER ASSIGNMENT.

12 SECTION 2. Section 28.0211, Education Code, is amended by
13 amending Subsections (a), (a-1), (a-2), (a-3), (c), (f), (i), (k),
14 and (n) and adding Subsections (a-4), (a-5), (a-6), (f-1), (f-2),
15 (f-3), (f-4), (f-5), and (n-1) to read as follows:

16 (a) A school district shall establish an accelerated
17 learning committee described by Subsection (c) for each student who
18 does not perform satisfactorily on:

19 (1) the third grade mathematics or reading assessment
20 instrument under Section 39.023;

21 (2) [~~Except as provided by Subsection (b) or (c), a~~
22 student may not be promoted to:

23 [~~(1) the sixth grade program to which the student~~
24 would otherwise be assigned if the student does not perform

1 ~~satisfactorily on~~] the fifth grade mathematics or [~~and~~] reading
2 assessment instrument [~~instruments~~] under Section 39.023; or

3 (3) [~~(2) the ninth grade program to which the student~~
4 ~~would otherwise be assigned if the student does not perform~~
5 ~~satisfactorily on~~] the eighth grade mathematics or [~~and~~] reading
6 assessment instrument [~~instruments~~] under Section 39.023.

7 (a-1) Each time a student fails to perform satisfactorily on
8 an assessment instrument administered under Section 39.023(a) in
9 the third, fourth, fifth, sixth, seventh, or eighth grade, the
10 school district in which the student attends school shall provide
11 to the student accelerated instruction in the applicable subject
12 area during the subsequent summer or school year and either:

13 (1) allow the student to be assigned a classroom
14 teacher who is certified as a master, exemplary, or recognized
15 teacher under Section 21.3521 for the subsequent school year in the
16 applicable subject area; or

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

19 (a-2) Accelerated instruction provided during the following
20 school year under Subsection (a-1) may require participation of the
21 student before or after normal school hours [~~and may include~~
22 ~~participation at times of the year outside normal school~~
23 ~~operations~~].

24 (a-3) In providing accelerated instruction under Subsection
25 (a-1), a district may not remove a student, except under
26 circumstances for which a student enrolled in the same grade level
27 who is not receiving accelerated instruction would be removed,

1 from:

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

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

7 (a-4) If a district receives funding under Section 29.0881,
8 the Coronavirus Response and Relief Supplemental Appropriations
9 Act, 2021 (Div. M, Pub. L. No. 116-260, reprinted in note, 20 U.S.C.
10 Section 3401), or the American Rescue Plan Act of 2021 (Pub. L. No.
11 117-2, reprinted in note, 20 U.S.C. Section 3401), supplemental
12 instruction provided by the district under Subsection (a-1)(2)
13 must:

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

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

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

24 (4) be designed to assist the student in achieving
25 satisfactory performance in the applicable grade level and subject
26 area;

27 (5) include effective instructional materials

1 designed for supplemental instruction;

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

5 (7) be provided by a person with training in the
6 applicable instructional materials for the supplemental
7 instruction and under the oversight of the school district; and

8 (8) to the extent possible, be provided by one person
9 for the entirety of the student's supplemental instruction period.

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

16 ~~[(a-2) A student who fails to perform satisfactorily on an~~
17 ~~assessment instrument specified under Subsection (a) and who is~~
18 ~~promoted to the next grade level must complete accelerated~~
19 ~~instruction required under Subsection (a-1) before placement in the~~
20 ~~next grade level. A student who fails to complete required~~
21 ~~accelerated instruction may not be promoted.]~~

22 (a-6) [(a-3)] The commissioner shall provide guidelines to
23 school districts on research-based best practices and effective
24 strategies that a district may use in developing an accelerated
25 instruction program and shall provide resources to districts to
26 assist in the provision of an accelerated instruction program.

27 (c) ~~[Each time a student fails to perform satisfactorily on~~

1 ~~an assessment instrument specified under Subsection (a), the school~~
2 ~~district in which the student attends school shall provide to the~~
3 ~~student accelerated instruction in the applicable subject area,~~
4 ~~including reading instruction for a student who fails to perform~~
5 ~~satisfactorily on a reading assessment instrument.] After a~~
6 student fails to perform satisfactorily on an assessment instrument
7 specified under Subsection (a), an accelerated learning [~~a second~~
8 ~~time, a grade placement]~~ committee shall be established [~~to~~
9 ~~prescribe the accelerated instruction the district shall provide to~~
10 ~~the student before the student is administered the assessment~~
11 ~~instrument the third time]. The accelerated learning [~~grade~~
12 ~~placement]~~ committee shall be composed of the principal or the
13 principal's designee, the student's parent or guardian, and the
14 teacher of the subject of an assessment instrument on which the
15 student failed to perform satisfactorily. The district shall
16 notify the parent or guardian of the time and place for convening
17 the accelerated learning [~~grade placement]~~ committee and the
18 purpose of the committee. [~~An accelerated instruction group~~
19 ~~administered by a school district under this section may not have a~~
20 ~~ratio of more than 10 students for each teacher.]~~~~

21 (f) An accelerated learning [~~A school district shall~~
22 ~~provide to a student who, after three attempts, has failed to~~
23 ~~perform satisfactorily on an assessment instrument specified under~~
24 ~~Subsection (a) accelerated instruction during the next school year~~
25 ~~as prescribed by an educational plan developed for the student by~~
26 ~~the student's grade placement]~~ committee described by [~~established~~
27 ~~under]~~ Subsection (c) shall, not later than the start of the

1 subsequent school year, develop an~~[. The district shall provide~~
2 ~~that accelerated instruction regardless of whether the student has~~
3 ~~been promoted or retained. The]~~ educational plan for the student
4 that provides the necessary accelerated instruction ~~[must be~~
5 ~~designed]~~ to enable the student to perform at the appropriate grade
6 level by the conclusion of the school year.

7 (f-1) The educational plan under Subsection (f) must be
8 documented in writing, and a copy must be provided to the student's
9 parent or guardian.

10 (f-2) During the school year, the student shall be monitored
11 to ensure that the student is progressing in accordance with the
12 plan developed under Subsection (f). The district shall administer
13 to the student the assessment instrument for the grade level in
14 which the student is placed at the time the district regularly
15 administers the assessment instruments for that school year.

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

21 (f-4) If a student who fails to perform satisfactorily on an
22 assessment instrument specified under Subsection (a) fails in the
23 subsequent school year to perform satisfactorily on an assessment
24 instrument in the same subject, the superintendent of the district,
25 or the superintendent's designee, shall meet with the student's
26 accelerated learning committee to:

27 (1) identify the reason the student did not perform

1 satisfactorily; and

2 (2) determine, in order to ensure the student performs
3 satisfactorily on the assessment instrument at the next
4 administration of the assessment instrument, whether:

5 (A) the educational plan developed for the
6 student under Subsection (f) must be modified to provide the
7 necessary accelerated instruction for that student; and

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

10 (f-5) The superintendent's designee under Subsection (f-4):

11 (1) may be an employee of a regional education service
12 center; and

13 (2) may not be a person who served on the student's
14 accelerated learning committee.

15 (i) The admission, review, and dismissal committee of a
16 student who participates in a district's special education program
17 under Subchapter A, Chapter 29, and who does not perform
18 satisfactorily on an assessment instrument specified under
19 Subsection (a) and administered under Section 39.023(a) or (b) must
20 meet to [~~before the student is administered the assessment~~
21 ~~instrument for the second time. The committee shall~~] determine[+]

22 [~~(1)~~] the manner in which the student will participate
23 in an accelerated instruction program under this section[+, and

24 [~~(2) whether the student will be promoted in~~
25 ~~accordance with Subsection (i-1) or retained under this section].~~

26 (k) The commissioner may [~~shall~~] adopt rules as necessary to
27 implement this section[+, including rules concerning when school

1 ~~districts shall administer assessment instruments required under~~
2 ~~this section and which administration of the assessment instruments~~
3 ~~will be used for purposes of Section 39.054].~~

4 (n) Except as provided by Subsection (n-1), a [A] student
5 who fails to perform satisfactorily on an assessment instrument
6 specified under Subsection (a) and is promoted to the next grade
7 level [by a grade placement committee under this section] must be
8 assigned in the subsequent school year in each subject in which the
9 student failed to perform satisfactorily on an assessment
10 instrument specified under Subsection (a) to an appropriately
11 certified [a] teacher who meets all state and federal
12 qualifications to teach that subject and grade.

13 (n-1) In a manner consistent with federal law and
14 notwithstanding any other law, the commissioner may waive the
15 requirement under Subsection (n) regarding the assignment of a
16 student to an appropriately certified classroom teacher on the
17 request of a school district.

18 SECTION 3. Section 28.0217, Education Code, is amended to
19 read as follows:

20 Sec. 28.0217. ACCELERATED INSTRUCTION FOR HIGH SCHOOL
21 STUDENTS. (a) Each time a student fails to perform satisfactorily
22 on an assessment instrument administered under Section 39.023(c),
23 the school district in which the student attends school shall
24 provide to the student accelerated instruction in the applicable
25 subject area~~[, using funds appropriated for accelerated~~
26 ~~instruction under Section 28.0211].~~

27 (b) Accelerated instruction provided under this section:

1 (1) may require participation of the student before or
2 after normal school hours and may include participation at times of
3 the year outside normal school operations; and

4 (2) must comply with the requirements for accelerated
5 instruction provided under Section 28.0211.

6 SECTION 4. Subchapter C, Chapter 29, Education Code, is
7 amended by adding Section 29.0881 to read as follows:

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

14 (b) The commissioner shall adopt components that school
15 districts, open-enrollment charter schools, and campuses of the
16 districts or schools must implement under the strong foundations
17 grant program. The components must include:

18 (1) use of high-quality instructional materials,
19 curricula, and curricular tools;

20 (2) use of aligned diagnostic and formative
21 assessments;

22 (3) aligned professional supports;

23 (4) practices designed to ensure high-quality
24 supports for students with disabilities;

25 (5) evidence-based practices to increase and maintain
26 parental engagement; and

27 (6) measurement of fidelity of implementation of the

1 program.

2 (c) Grants provided under the strong foundations grant
3 program may be in the form of funds, in-kind resources, or both.

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

8 (e) A school district or open-enrollment charter school
9 that receives grant funds under this section may use the funds to:

10 (1) financially support or train or otherwise prepare
11 educators and other staff;

12 (2) pay for agreements with other entities to provide
13 prekindergarten services; or

14 (3) pay for accelerated instruction provided under
15 Section [28.0211](#) or [28.0217](#).

16 (f) The commissioner may accept gifts, grants, and
17 donations from any source, including private and nonprofit
18 organizations, for the program. A private or nonprofit
19 organization that contributes to the program may receive an award
20 under Section [7.113](#).

21 SECTION 5. Section [39.025](#)(b-1), Education Code, is amended
22 to read as follows:

23 (b-1) A school district shall provide each student who fails
24 to perform satisfactorily as determined by the commissioner under
25 Section [39.0241](#)(a) on an end-of-course assessment instrument with
26 accelerated instruction under Section [28.0217](#) in the subject
27 assessed by the assessment instrument.

1 SECTION 6. Section 39.301(c), Education Code, is amended to
2 read as follows:

3 (c) Indicators for reporting purposes must include:

4 (1) the percentage of graduating students who meet the
5 course requirements established by State Board of Education rule
6 for:

7 (A) the foundation high school program;

8 (B) the distinguished level of achievement under
9 the foundation high school program; and

10 (C) each endorsement described by Section
11 28.025(c-1);

12 (2) the results of the SAT, ACT, and certified
13 workforce training programs described by Chapter 311, Labor Code;

14 (3) for students who have failed to perform
15 satisfactorily, under each performance standard under Section
16 39.0241, on an assessment instrument required under Section
17 39.023(a) or (c), the performance of those students on subsequent
18 assessment instruments required under those sections, aggregated
19 by grade level and subject area;

20 (4) for each campus, the number of students,
21 disaggregated by major student subpopulations, that take courses
22 under the foundation high school program and take additional
23 courses to earn an endorsement under Section 28.025(c-1),
24 disaggregated by type of endorsement;

25 (5) the percentage of students, aggregated by grade
26 level, provided accelerated instruction under Section 28.0211
27 [~~28.0211(c)~~], the results of assessment instruments administered

1 under that section, [~~the percentage of students promoted through~~
2 ~~the grade placement committee process under Section 28.0211,~~] the
3 subject of the assessment instrument on which each student failed
4 to perform satisfactorily under each performance standard under
5 Section 39.0241, and the performance of those students in the
6 subsequent school year [~~following that promotion~~] on the assessment
7 instruments required under Section 39.023;

8 (6) the percentage of students of limited English
9 proficiency exempted from the administration of an assessment
10 instrument under Sections 39.027(a)(1) and (2);

11 (7) the percentage of students in a special education
12 program under Subchapter A, Chapter 29, assessed through assessment
13 instruments developed or adopted under Section 39.023(b);

14 (8) the percentage of students who satisfy the college
15 readiness measure;

16 (9) the measure of progress toward dual language
17 proficiency under Section 39.034(b), for students of limited
18 English proficiency, as defined by Section 29.052;

19 (10) the percentage of students who are not
20 educationally disadvantaged;

21 (11) the percentage of students who enroll and begin
22 instruction at an institution of higher education in the school
23 year following high school graduation; and

24 (12) the percentage of students who successfully
25 complete the first year of instruction at an institution of higher
26 education without needing a developmental education course.

27 SECTION 7. Section 39A.051(b), Education Code, is amended

1 to read as follows:

2 (b) For a campus described by Subsection (a), the
3 commissioner, to the extent the commissioner determines necessary,
4 may:

5 (1) order a hearing to be held before the commissioner
6 or the commissioner's designee at which the president of the board
7 of trustees of the school district, the district superintendent,
8 and the campus principal shall appear and explain the campus's low
9 performance, lack of improvement, and plans for improvement; ~~or~~

10 (2) establish a school community partnership team
11 composed of members of the campus-level planning and
12 decision-making committee established under Section 11.251 and
13 additional community representatives as determined appropriate by
14 the commissioner;

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

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

20 SECTION 8. Subchapter B, Chapter 39A, Education Code, is
21 amended by adding Section 39A.064 to read as follows:

22 Sec. 39A.064. STRONG FOUNDATIONS INTERVENTION FOR CERTAIN
23 CAMPUSES. (a) Notwithstanding Section 39A.0545(b) or any other
24 law, the commissioner may require a school district or
25 open-enrollment charter school to comply with all requirements of
26 the strong foundations grant program under Section 29.0881 at a
27 campus that:

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

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

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

9 (b) If funds are appropriated for the purpose, the
10 commissioner shall award a grant under Section 29.0881 to any
11 campus required to implement the requirements of the program under
12 this section.

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

16 SECTION 9. Section 51.338(d), Education Code, is amended to
17 read as follows:

18 (d) A student who has demonstrated the performance standard
19 for college readiness as provided by Section 28.008 on the
20 postsecondary readiness assessment instruments adopted under
21 Section 39.0238 for Algebra II and English III, as that section
22 existed before repeal by S.B. 2094, Acts of the 87th Legislature,
23 Regular Session, 2021, is exempt from the requirements of this
24 subchapter with respect to those content areas. The commissioner
25 of higher education by rule shall establish the period for which an
26 exemption under this subsection is valid.

27 SECTION 10. The following provisions of the Education Code

1 are repealed:

- 2 (1) Sections 28.0211(b), (d), (e), (i-1), (i-2), (m),
3 and (m-1);
4 (2) Section 39.0231; and
5 (3) Section 39.0238.

6 SECTION 11. As soon as practicable after the effective date
7 of this Act, the board of trustees of a school district shall adopt
8 a policy as required by Section 28.0211(f-3), Education Code, as
9 added by this Act.

10 SECTION 12. This Act applies beginning with the 2021-2022
11 school year.

12 SECTION 13. This Act takes effect immediately if it
13 receives a vote of two-thirds of all the members elected to each
14 house, as provided by Section 39, Article III, Texas Constitution.
15 If this Act does not receive the vote necessary for immediate
16 effect, this Act takes effect September 1, 2021.