By:  Dutton H.B. No. 4545

A BILL TO BE ENTITLED

AN ACT

relating to the purchase of certain instruction-related materials, the establishment of a strong foundations grant program, 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.

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

SECTION 1.  Subchapter C, Chapter 7, Education Code, is amended by adding Section 7.071 to read as follows:

Sec. 7.071.  INSTRUCTION-RELATED PURCHASE BY COMMISSIONER. (a) Using available funds and in addition to the commissioner's authority regarding instructional materials under Section 7.055(b)(28), the commissioner may purchase from available funds curriculum programs and other instructional tools to provide for use by school districts and open-enrollment charter schools.

(b)  To leverage state purchasing power and ensure cost-effective use of taxpayer funds, the commissioner may contract on behalf of school districts and open-enrollment charter schools to purchase any item for instructional purposes.

SECTION 2.  The heading to Section 28.0211, Education Code, is amended to read as follows:

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

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

(a)  A school district shall 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;

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

[~~(1)  the sixth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on~~] the fifth grade mathematics or [~~and~~] reading assessment instrument [~~instruments~~] under Section 39.023; or

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

(a-1)  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, the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area during the subsequent summer or school year. Accelerated instruction provided during the following school year may require participation of the student before or after normal school hours [~~and may include participation at times of the year outside normal school operations~~].

(a-2)  [~~A student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a) and who is promoted to the next grade level must complete accelerated instruction required under Subsection (a-1) before placement in the next grade level. A student who fails to complete required accelerated instruction may not be promoted.~~] Accelerated instruction provided by a district must:

(1)  ensure the student's participation in and exposure to all of the grade level content in the foundation and enrichment curriculum adopted under Section 28.002 that is available to students at the same grade level not receiving accelerated instruction;

(2)  allow the parent or guardian of the student to choose the teacher of record for the subsequent grade and subject or subsequent aligned course if more than one teacher of record is available for the subsequent grade or subject; and

(3)  provide one of the following options:

(A)  supplemental instruction as described by Subsection (a-3); or

(B)  the student is offered a teacher of record for the subsequent grade and subject or subsequent aligned course who is designated a recognized, exemplary, or master teacher under Section 21.3521 effective that year.

(a-3)  Supplemental instruction provided by a district under Subsection (a-2)(3)(A) must:

(1)  include targeted instruction in the essential knowledge and skills;

(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 following summer and school year, and include instruction no less than once per week unless the instruction is provided fully during summer;

(4)  be designed to assist the student in achieving grade level performance in the applicable 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 instructional materials used for supplemental instruction and who receives ongoing oversight while providing supplemental instruction; and

(7)  to the extent possible, be provided by the same person for the student for the entirety of the supplemental instruction period.

(a-4) [~~(a-3)~~]  The commissioner shall provide guidelines to school districts on research-based best practices and effective strategies that a district may use in developing an accelerated instruction program and may provide resources to districts to assist in the provision of an accelerated instruction program.

(c)  [~~Each time a student fails to perform satisfactorily on an assessment instrument specified under Subsection (a), the school district in which the student attends school shall 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.~~] After a student fails to perform satisfactorily on an assessment instrument specified under Subsection (a), an accelerated learning [~~a second time, a grade placement~~] committee shall be established [~~to prescribe the accelerated instruction the district shall provide to the student before the student is administered the assessment instrument the third time~~]. The accelerated learning [~~grade placement~~] committee shall 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. The district shall notify the parent or guardian of the time and place for convening the accelerated learning [~~grade placement~~] committee and the purpose of the committee. [~~An accelerated instruction group administered by a school district under this section may not have a ratio of more than 10 students for each teacher.~~]

(f)  An accelerated learning [~~A school district shall 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 described by [~~established under~~] Subsection (c) shall, not later than the start of the subsequent school year, develop an[~~. The district shall provide that accelerated instruction regardless of whether the student has been promoted or retained. The~~] educational plan for the student that provides the necessary accelerated instruction [~~must be designed~~] to enable the student to perform at the appropriate grade level by the conclusion of the school year.

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

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

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

(f-4)  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, the superintendent of the district, or the superintendent's designee, shall 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) must be modified to provide the necessary accelerated instruction for that student; and

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

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

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

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

(i)  The admission, review, and dismissal committee of a student who participates in a district's special education program under Subchapter A, 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) must meet to [~~before the student is administered the assessment instrument for the second time. The committee shall~~] determine[~~:~~

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

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

(k)  The commissioner may [~~shall~~] adopt rules as necessary to implement this section[~~, including rules concerning when school districts shall administer assessment instruments required under this section and which administration of the assessment instruments will be used for purposes of Section 39.054~~].

(n)  A student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a) and is promoted to the next grade level [~~by a grade placement committee under this section~~] must 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 a teacher who meets all state and federal qualifications to teach that subject and grade.

SECTION 4.  Section 28.0217, Education Code, is amended to read as follows:

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

(b)  Accelerated instruction provided under this section:

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

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

SECTION 5.  Subchapter C, Chapter 29, Education Code, is amended by adding Section 29.0881 to read as follows:

Sec. 29.0881.  STRONG FOUNDATIONS GRANT PROGRAM. (a) The commissioner shall 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)  The commissioner shall adopt components that school districts, open-enrollment charter schools, and campuses of the districts or schools must implement under the strong foundations grant program. The components must include:

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

(2)  aligned professional supports; and

(3)  measurement of fidelity of implementation of the program.

(c)  The commissioner shall 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.

(d)  The commissioner may accept gifts, grants, and donations from any source, including private and nonprofit organizations, for the program. A private or nonprofit organization that contributes to the program may receive an award under Section 7.113.

(e)  The commissioner may adopt rules as necessary to administer the strong foundations grant program.

SECTION 6.  Sections 39.023 (a-4), (c-3), and (e), Education Code, are amended to read as follows:

(a-4)  For purposes of Subsection (a)(1), the State Board of Education by rule must require the mathematics assessment instrument for a grade level to align with the technology expectations included in the essential knowledge and skills for that grade level and may designate sections of a mathematics assessment instrument for a grade level that:

(1)  may be completed with the aid of technology; and

(2)  must be completed without the aid of technology.

(c-3)  Except as provided by Subsection (c-7), as added by Chapter 1315 (H.B. 3906), Acts of the 86th Legislature, Regular Session, 2019, in adopting a schedule for the administration of assessment instruments under this section, the State Board of Education shall ensure that assessment instruments administered under Subsection (a) or (c) are not administered on the first instructional day of a week unless the superintendent of a school district applies to the commissioner for a waiver of the requirement under this subsection due to local conditions which have significantly affected the district's ability to comply with the requirement of this subsection.

(e)  Under rules adopted by the State Board of Education, at least every third year, the agency shall release the questions and answer keys to each assessment instrument administered under Subsection (a), (b), (c), (d), or (l), excluding any assessment instrument administered to a student for the purpose of retaking the assessment instrument, after the last time the instrument is administered for that school year. To ensure a valid bank of questions for use each year, the agency is not required to release a question that is being field-tested and was not used to compute the student's score on the instrument. The agency shall also release , under board rule, each question that is no longer being field-tested and that was not used to compute a student's score. [~~During the 2014-2015 and 2015-2016 school years, the agency shall release the questions and answer keys to assessment instruments as described by this subsection each year.~~]

SECTION 7.  Section 39.025(b-1), Education Code, is amended to read as follows:

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

SECTION 8.  Section 39.301(c), Education Code, is amended to read as follows:

(c)  Indicators for reporting purposes must include:

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

(A)  the foundation high school program;

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

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

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

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

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

(5)  the percentage of students, aggregated by grade level, provided accelerated instruction under Section 28.0211 [~~28.0211(c)~~], the results of assessment instruments administered under that section, [~~the percentage of students promoted through the grade placement committee process under Section 28.0211,~~] the subject of the assessment instrument on which each student failed to perform satisfactorily under each performance standard under Section 39.0241, and the performance of those students in the subsequent school year [~~following that promotion~~] on the assessment instruments required under Section 39.023;

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

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

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

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

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

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

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

SECTION 9.  Subchapter C, Chapter 48, Education Code, is amended by adding Section 48.1102 to read as follows:

Sec. 48.1102.  ACCELERATED LEARNING AND SUSTAINMENT OUTCOMES BONUS. (a) 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)  For each successfully accelerated student enrolled in a school district or open-enrollment charter school who exceeds the threshold established by the commissioner under Subsection (d), a school district or open-enrollment charter school is entitled to $500 for each successfully accelerated student who is not educationally disadvantaged and $1,000 for each successfully accelerated student who is educationally disadvantaged.

(c)  For each sustained accelerated student enrolled in a school district or open-enrollment charter school, a school district or open-enrollment charter school is entitled to $250 for each sustained accelerated student who is not educationally disadvantaged and $500 for each sustained accelerated student who is educationally disadvantaged.

(d)  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, for each subject and grade the commissioner shall:

(1)  establish the threshold percentage of successfully accelerated students who are not educationally disadvantaged; and

(2)  establish the threshold percentage of successfully accelerated students who are educationally disadvantaged.

(e)  Each year, the commissioner shall determine for each school district and open-enrollment charter school, the minimum number of successfully accelerated students the district must have in order for the district to achieve the percentage equal to the threshold percentage established for that group of students under Subsection (b).

(f)  After five years of the same threshold performance standard, the commissioner may modify the thresholds under Subsection (d) if the commissioner determines that substantial performance in the median performance of districts has occurred.

SECTION 10.  Section 51.338(d), Education Code, is amended to read as follows:

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

SECTION 11.  The following provisions of the Education Code are repealed:

(1)  Sections 28.0211(b), (d), (e), (i-1), (i-2), (m), and (m-1);

(2)  Section 39.0231; and

(3)  Section 39.0238.

SECTION 12.  As soon as practicable after the effective date of this Act, the board of trustees of a school district shall adopt a policy as required by Section 28.0211(f-3), Education Code, as added by this Act.

SECTION 13.  To the extent of any conflict, this Act prevails over another Act of the 87th Legislature, Regular Session, 2021, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 14.  This Act applies beginning with the 2021-2022 school year.

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