

By: Dutton

H.B. No. 4545

Substitute the following for H.B. No. 4545:

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C.S.H.B. No. 4545

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the assessment of public school students and the  
3 purchase of certain instruction-related materials, the  
4 establishment of a strong foundations grant program, providing  
5 accelerated instruction for students who fail to achieve  
6 satisfactory performance on certain assessment instruments, and an  
7 accelerated learning and sustainment outcomes bonus allotment  
8 under the foundation school program.

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

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

12 Sec. 7.071. INSTRUCTION-RELATED PURCHASE BY COMMISSIONER.

13 (a) Using funds appropriated for the purpose or otherwise  
14 available to the commissioner in the form of grants, the  
15 commissioner may purchase curriculum programs, instructional  
16 materials, and other instructional tools to provide for use by  
17 school districts and open-enrollment charter schools.

18 (b) To leverage state purchasing power and ensure  
19 cost-effective use of taxpayer funds, the commissioner may contract  
20 on behalf of a school district or open-enrollment charter school to  
21 purchase any item for instructional purposes, provided that the  
22 district or school dedicates local funds for the purpose.

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

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

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

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

11                 (1) the third grade mathematics or reading assessment  
12 instrument under Section 39.023;

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

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

19                         (3) [~~(2) the ninth grade program to which the student~~  
20 would otherwise be assigned if the student does not perform  
21 satisfactorily on] the eighth grade mathematics or [~~and~~] reading  
22 assessment instrument [~~instruments~~] under Section 39.023.

23           (a-1) Each time a student fails to perform satisfactorily on  
24 an assessment instrument administered under Section 39.023(a) in  
25 the third, fourth, fifth, sixth, seventh, or eighth grade, the  
26 school district in which the student attends school shall provide  
27 to the student accelerated instruction in the applicable subject

1 area during the subsequent summer or school year and either:

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

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

8 (a-2) Accelerated instruction provided during the following  
9 school year under Subsection (a-1) may require participation of the  
10 student before or after normal school hours [~~and may include~~  
11 ~~participation at times of the year outside normal school~~  
12 ~~operations].~~

13 (a-3) In providing accelerated instruction under Subsection  
14 (a-1), a district may not remove a student, except under  
15 circumstances for which a student enrolled in the same grade level  
16 who is not receiving accelerated instruction would be removed,  
17 from:

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

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

23 (a-4) Supplemental instruction provided by a school  
24 district under Subsection (a-1)(2) must:

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

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

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

8           (4) be designed to assist the student in achieving  
9 satisfactory performance in the applicable grade level and subject  
10 area;

11           (5) include effective instructional materials  
12 designed for supplemental instruction;

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

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

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

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

27           ~~[(a-2) A student who fails to perform satisfactorily on an~~

1 ~~assessment instrument specified under Subsection (a) and who is~~  
2 ~~promoted to the next grade level must complete accelerated~~  
3 ~~instruction required under Subsection (a-1) before placement in the~~  
4 ~~next grade level. A student who fails to complete required~~  
5 ~~accelerated instruction may not be promoted.]~~

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

11 (c) [~~Each time a student fails to perform satisfactorily on~~  
12 ~~an assessment instrument specified under Subsection (a), the school~~  
13 ~~district in which the student attends school shall provide to the~~  
14 ~~student accelerated instruction in the applicable subject area,~~  
15 ~~including reading instruction for a student who fails to perform~~  
16 ~~satisfactorily on a reading assessment instrument.] After a~~

17 student fails to perform satisfactorily on an assessment instrument  
18 specified under Subsection (a), an accelerated learning [~~a second~~  
19 ~~time, a grade placement]~~ committee shall be established [~~to~~  
20 ~~prescribe the accelerated instruction the district shall provide to~~  
21 ~~the student before the student is administered the assessment~~  
22 ~~instrument the third time]. The accelerated learning [~~grade~~  
23 ~~placement]~~ committee shall be composed of the principal or the  
24 principal's designee, the student's parent or guardian, and the  
25 teacher of the subject of an assessment instrument on which the  
26 student failed to perform satisfactorily. The district shall  
27 notify the parent or guardian of the time and place for convening~~

1 the accelerated learning [~~grade placement~~] committee and the  
2 purpose of the committee. [~~An accelerated instruction group~~  
3 ~~administered by a school district under this section may not have a~~  
4 ~~ratio of more than 10 students for each teacher.~~]

5 (f) An accelerated learning [~~A school district shall~~  
6 ~~provide to a student who, after three attempts, has failed to~~  
7 ~~perform satisfactorily on an assessment instrument specified under~~  
8 ~~Subsection (a) accelerated instruction during the next school year~~  
9 ~~as prescribed by an educational plan developed for the student by~~  
10 ~~the student's grade placement] committee described by [~~established~~  
11 ~~under]~~ Subsection (c) shall, not later than the start of the  
12 subsequent school year, develop an[~~. The district shall provide~~  
13 ~~that accelerated instruction regardless of whether the student has~~  
14 ~~been promoted or retained. The]~~ educational plan for the student  
15 that provides the necessary accelerated instruction [~~must be~~  
16 ~~designed]~~ to enable the student to perform at the appropriate grade  
17 level by the conclusion of the school year.~~

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

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

27 (f-3) The board of trustees of each school district shall

1 adopt a policy consistent with the grievance procedure adopted  
2 under Section 26.011 to allow a parent to contest the content or  
3 implementation of an educational plan developed under Subsection  
4 (f).

5 (f-4) If a student who fails to perform satisfactorily on an  
6 assessment instrument specified under Subsection (a) fails in the  
7 subsequent school year to perform satisfactorily on an assessment  
8 instrument in the same subject, the superintendent of the district,  
9 or the superintendent's designee, shall meet with the student's  
10 accelerated learning committee to:

11 (1) identify the reason the student did not perform  
12 satisfactorily; and

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

16 (A) the educational plan developed for the  
17 student under Subsection (f) must be modified to provide the  
18 necessary accelerated instruction for that student; and

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

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

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

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

26 (i) The admission, review, and dismissal committee of a  
27 student who participates in a district's special education program

1 under Subchapter A, Chapter 29, and who does not perform  
2 satisfactorily on an assessment instrument specified under  
3 Subsection (a) and administered under Section 39.023(a) or (b) must  
4 meet to ~~[before the student is administered the assessment~~  
5 ~~instrument for the second time. The committee shall]~~ determine[+]

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

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

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

15 (n) Except as provided by Subsection (n-1), a [A] student  
16 who fails to perform satisfactorily on an assessment instrument  
17 specified under Subsection (a) and is promoted to the next grade  
18 level [by a grade placement committee under this section] must be  
19 assigned in the subsequent school year in each subject in which the  
20 student failed to perform satisfactorily on an assessment  
21 instrument specified under Subsection (a) to an appropriately  
22 certified [a] teacher who meets all state and federal  
23 qualifications to teach that subject and grade.

24 (n-1) In a manner consistent with federal law and  
25 notwithstanding any other law, the commissioner may waive the  
26 requirement under Subsection (n) regarding the assignment of a  
27 student to an appropriately certified classroom teacher on the

1 request of a school district.

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

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

11 (b) Accelerated instruction provided under this section:

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

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

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

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

25 (b) The commissioner shall adopt components that school  
26 districts, open-enrollment charter schools, and campuses of the  
27 districts or schools must implement under the strong foundations

1 grant program. The components must include:

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

4 (2) use of aligned diagnostic and formative  
5 assessments;

6 (3) aligned professional supports;

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

9 (5) evidence-based practices to increase and maintain  
10 parental engagement; and

11 (6) measurement of fidelity of implementation of the  
12 program.

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

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

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

21 (1) financially support or train or otherwise prepare  
22 educators and other staff; or

23 (2) pay for agreements with other entities to provide  
24 prekindergarten services.

25 (f) The commissioner may accept gifts, grants, and  
26 donations from any source, including private and nonprofit  
27 organizations, for the program. A private or nonprofit

1 organization that contributes to the program may receive an award  
2 under Section 7.113.

3 SECTION 6. Section 39.025(b-1), Education Code, is amended  
4 to read as follows:

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

10 SECTION 7. Section 39.301(c), Education Code, is amended to  
11 read as follows:

12 (c) Indicators for reporting purposes must include:

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

16 (A) the foundation high school program;

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

19 (C) each endorsement described by Section  
20 28.025(c-1);

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

23 (3) for students who have failed to perform  
24 satisfactorily, under each performance standard under Section  
25 39.0241, on an assessment instrument required under Section  
26 39.023(a) or (c), the performance of those students on subsequent  
27 assessment instruments required under those sections, aggregated

1 by grade level and subject area;

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

7 (5) the percentage of students, aggregated by grade  
8 level, provided accelerated instruction under Section 28.0211  
9 [~~28.0211(c)~~], the results of assessment instruments administered  
10 under that section, [~~the percentage of students promoted through~~  
11 ~~the grade placement committee process under Section 28.0211,~~] the  
12 subject of the assessment instrument on which each student failed  
13 to perform satisfactorily under each performance standard under  
14 Section 39.0241, and the performance of those students in the  
15 subsequent school year [~~following that promotion~~] on the assessment  
16 instruments required under Section 39.023;

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

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

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

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

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

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

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

9           SECTION 8. Section 39A.051(b), Education Code, is amended  
10 to read as follows:

11           (b) For a campus described by Subsection (a), the  
12 commissioner, to the extent the commissioner determines necessary,  
13 may:

14           (1) order a hearing to be held before the commissioner  
15 or the commissioner's designee at which the president of the board  
16 of trustees of the school district, the district superintendent,  
17 and the campus principal shall appear and explain the campus's low  
18 performance, lack of improvement, and plans for improvement; ~~[or]~~

19           (2) establish a school community partnership team  
20 composed of members of the campus-level planning and  
21 decision-making committee established under Section 11.251 and  
22 additional community representatives as determined appropriate by  
23 the commissioner;

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

27           (4) any combination of the actions described by

1 Subdivisions (1) through (3).

2 SECTION 9. Subchapter B, Chapter 39A, Education Code, is  
3 amended by adding Section 39A.064 to read as follows:

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

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

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

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

18 (b) If funds are appropriated for the purpose, the  
19 commissioner shall award a grant under Section 29.0881 to any  
20 campus required to implement the requirements of the program under  
21 this section.

22 (c) The commissioner shall adopt rules to determine whether  
23 a school district or open-enrollment charter school is complying  
24 adequately with the requirements under this section. A district or  
25 school that does not comply adequately shall be subject to other  
26 interventions in accordance with this chapter, including the  
27 appointment of a conservator under Section 39A.102.

1 SECTION 10. Subchapter C, Chapter 48, Education Code, is  
2 amended by adding Section 48.1102 to read as follows:

3 Sec. 48.1102. ACCELERATED LEARNING AND SUSTAINMENT  
4 OUTCOMES BONUS. (a) For purposes of this section, a student is a:

5 (1) successfully accelerated student if the student:

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

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

12 (2) sustained accelerated student if the student:

13 (A) performs at the level determined under  
14 Section 39.0241(a-1) or the equivalent to determine preparedness  
15 for the student's next grade level or better on an assessment  
16 instrument administered under Section 39.023(a);

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

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

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

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

3           (2) \$1,000 for each student who is educationally  
4 disadvantaged.

5           (c) For each sustained accelerated student, a school  
6 district or open-enrollment charter school is entitled to the  
7 following annual outcomes bonus:

8           (1) \$250 for each student who is not educationally  
9 disadvantaged; and

10           (2) \$500 for each student who is educationally  
11 disadvantaged.

12           (d) The commissioner shall establish, using a percentile  
13 determined by the commissioner based on the median performance of  
14 school districts and open-enrollment charter schools on  
15 assessments administered under Section 39.023(a) during the  
16 2017-2018 school year, a threshold percentage of:

17           (1) successfully accelerated students who are not  
18 educationally disadvantaged; and

19           (2) successfully accelerated students who are  
20 educationally disadvantaged.

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

27           (f) The commissioner may modify the threshold percentages

1 established under Subsection (d) once every five years if the  
2 commissioner determines that substantial improvement in the median  
3 performance of school districts and open-enrollment charter  
4 schools has occurred.

5 SECTION 11. Section 51.338(d), Education Code, is amended  
6 to read as follows:

7 (d) A student who has demonstrated the performance standard  
8 for college readiness as provided by Section 28.008 on the  
9 postsecondary readiness assessment instruments adopted under  
10 Section 39.0238 for Algebra II and English III, as that section  
11 existed before repeal by H.B. 4545, Acts of the 87th Legislature,  
12 Regular Session, 2021, is exempt from the requirements of this  
13 subchapter with respect to those content areas. The commissioner  
14 of higher education by rule shall establish the period for which an  
15 exemption under this subsection is valid.

16 SECTION 12. The following provisions of the Education Code  
17 are repealed:

- 18 (1) Sections 28.0211(b), (d), (e), (i-1), (i-2), (m),  
19 and (m-1);  
20 (2) Section 39.0231; and  
21 (3) Section 39.0238.

22 SECTION 13. As soon as practicable after the effective date  
23 of this Act, the board of trustees of a school district shall adopt  
24 a policy as required by Section 28.0211(f-3), Education Code, as  
25 added by this Act.

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

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