

By: Dutton

H.B. No. 4545

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

12 (a) Using available funds and in addition to the commissioner's
13 authority regarding instructional materials under Section
14 7.055(b)(28), the commissioner may purchase from available funds
15 curriculum programs and other instructional tools to provide for
16 use by school districts and open-enrollment charter schools.

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

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

23 Sec. 28.0211. ACCELERATED LEARNING COMMITTEE [~~SATISFACTORY~~
24 ~~PERFORMANCE ON ASSESSMENT INSTRUMENTS REQUIRED~~]; ACCELERATED

1 INSTRUCTION; MODIFIED TEACHER ASSIGNMENT.

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

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

9 (1) the third grade mathematics or reading assessment
10 instrument under Section 39.023;

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

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

17 (3) ~~[(2) the ninth grade program to which the student~~
18 ~~would otherwise be assigned if the student does not perform~~
19 ~~satisfactorily on] the eighth grade mathematics or ~~and~~ reading~~
20 ~~assessment instrument [instruments] under Section 39.023.~~

21 (a-1) Each time a student fails to perform satisfactorily on
22 an assessment instrument administered under Section 39.023(a) in
23 the third, fourth, fifth, sixth, seventh, or eighth grade, the
24 school district in which the student attends school shall provide
25 to the student accelerated instruction in the applicable subject
26 area during the subsequent summer or school year. Accelerated
27 instruction provided during the following school year may require

1 participation of the student before or after normal school hours
2 [~~and may include participation at times of the year outside normal~~
3 ~~school operations~~].

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

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

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

20 (3) provide one of the following options:

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

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

27 (a-3) Supplemental instruction provided by a district under

1 Subsection (a-2)(3)(A) must:

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

4 (2) be provided in addition to instruction normally
5 provided to students in the grade level in which the student is
6 enrolled;

7 (3) be provided for no less than 30 total hours during
8 the following summer and school year, and include instruction no
9 less than once per week unless the instruction is provided fully
10 during summer;

11 (4) be designed to assist the student in achieving
12 grade level performance in the applicable subject area;

13 (5) include effective instructional materials
14 designed for supplemental instruction;

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

18 (7) be provided by a person with training in the
19 instructional materials used for supplemental instruction and who
20 receives ongoing oversight while providing supplemental
21 instruction; and

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

25 (a-4) [~~(a-3)~~] The commissioner shall provide guidelines to
26 school districts on research-based best practices and effective
27 strategies that a district may use in developing an accelerated

1 instruction program and may provide resources to districts to
2 assist in the provision of an accelerated instruction program.

3 (c) ~~[Each time a student fails to perform satisfactorily on~~
4 ~~an assessment instrument specified under Subsection (a), the school~~
5 ~~district in which the student attends school shall provide to the~~
6 ~~student accelerated instruction in the applicable subject area,~~
7 ~~including reading instruction for a student who fails to perform~~
8 ~~satisfactorily on a reading assessment instrument.]~~ After a student
9 fails to perform satisfactorily on an assessment instrument
10 specified under Subsection (a), an accelerated learning ~~[a second~~
11 ~~time, a grade placement]~~ committee shall be established ~~[to~~
12 ~~prescribe the accelerated instruction the district shall provide to~~
13 ~~the student before the student is administered the assessment~~
14 ~~instrument the third time].~~ The accelerated learning ~~[grade~~
15 ~~placement]~~ committee shall be composed of the principal or the
16 principal's designee, the student's parent or guardian, and the
17 teacher of the subject of an assessment instrument on which the
18 student failed to perform satisfactorily. The district shall notify
19 the parent or guardian of the time and place for convening the
20 accelerated learning ~~[grade placement]~~ committee and the purpose of
21 the committee. ~~[An accelerated instruction group administered by a~~
22 ~~school district under this section may not have a ratio of more than~~
23 ~~10 students for each teacher.]~~

24 (f) An accelerated learning ~~[A school district shall~~
25 ~~provide to a student who, after three attempts, has failed to~~
26 ~~perform satisfactorily on an assessment instrument specified under~~
27 ~~Subsection (a) accelerated instruction during the next school year~~

1 ~~as prescribed by an educational plan developed for the student by~~
2 ~~the student's grade placement] committee described by [established~~
3 ~~under] Subsection (c) shall, not later than the start of the~~
4 ~~subsequent school year, develop an~~ ~~[. The district shall provide~~
5 ~~that accelerated instruction regardless of whether the student has~~
6 ~~been promoted or retained. The] educational plan for the student~~
7 ~~that provides the necessary accelerated instruction~~ ~~[must be~~
8 ~~designed] to enable the student to perform at the appropriate grade~~
9 level by the conclusion of the school year.

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

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

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

24 (f-4) If a student who fails to perform satisfactorily on an
25 assessment instrument specified under Subsection (a) fails in the
26 subsequent school year to perform satisfactorily on an assessment
27 instrument in the same subject, the superintendent of the district,

1 or the superintendent's designee, shall meet with the student's
2 accelerated learning committee to:

3 (1) identify the reason the student did not perform
4 satisfactorily; and

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

8 (A) the educational plan developed for the
9 student under Subsection (f) must be modified to provide the
10 necessary accelerated instruction for that student; and

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

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

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

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

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

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

27 [~~(2) whether the student will be promoted in~~

1 ~~accordance with Subsection (i-1) or retained under this section].~~

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

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

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

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

24 (b) Accelerated instruction provided under this section:

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

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

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

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

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

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

17 (2) aligned professional supports; and

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

20 (c) The commissioner shall use funds appropriated, federal
21 funds, and other funds available for the strong foundations grant
22 program to assist school districts and open-enrollment charter
23 schools in implementing the program.

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

1 under Section 7.113.

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

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

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

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

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

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

25 (e) Under rules adopted by the State Board of Education, at
26 least every third year, the agency shall release the questions and
27 answer keys to each assessment instrument administered under

1 Subsection (a), (b), (c), (d), or (l), excluding any assessment
2 instrument administered to a student for the purpose of retaking
3 the assessment instrument, after the last time the instrument is
4 administered for that school year. To ensure a valid bank of
5 questions for use each year, the agency is not required to release a
6 question that is being field-tested and was not used to compute the
7 student's score on the instrument. The agency shall also release ,
8 under board rule, each question that is no longer being
9 field-tested and that was not used to compute a student's score.
10 ~~[During the 2014-2015 and 2015-2016 school years, the agency shall~~
11 ~~release the questions and answer keys to assessment instruments as~~
12 ~~described by this subsection each year.]~~

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

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

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

22 (c) Indicators for reporting purposes must include:

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

26 (A) the foundation high school program;

27 (B) the distinguished level of achievement under

1 the foundation high school program; and

2 (C) each endorsement described by Section
3 28.025(c-1);

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

6 (3) for students who have failed to perform
7 satisfactorily, under each performance standard under Section
8 39.0241, on an assessment instrument required under Section
9 39.023(a) or (c), the performance of those students on subsequent
10 assessment instruments required under those sections, aggregated
11 by grade level and subject area;

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

17 (5) the percentage of students, aggregated by grade
18 level, provided accelerated instruction under Section 28.0211
19 [~~28.0211(c)~~], the results of assessment instruments administered
20 under that section, [~~the percentage of students promoted through~~
21 ~~the grade placement committee process under Section 28.0211,~~] the
22 subject of the assessment instrument on which each student failed
23 to perform satisfactorily under each performance standard under
24 Section 39.0241, and the performance of those students in the
25 subsequent school year [~~following that promotion~~] on the assessment
26 instruments required under Section 39.023;

27 (6) the percentage of students of limited English

1 proficiency exempted from the administration of an assessment
2 instrument under Sections 39.027(a)(1) and (2);

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

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

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

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

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

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

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

21 Sec. 48.1102. ACCELERATED LEARNING AND SUSTAINMENT

22 OUTCOMES BONUS. (a) For purposes of this section, a student is a:

23 (1) successfully accelerated student if the student:

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

26 (B) was administered but did not perform
27 satisfactorily on the assessment instrument administered under

1 Section 39.023(a) for the same subject in the student's preceding
2 grade level; and

3 (2) sustained accelerated student if the student:

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

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

11 (C) was administered but did not perform
12 satisfactorily on the assessment instrument administered under
13 Section 39.023(a) for the grade level and subject preceding the
14 assessment described by Paragraph (B).

15 (b) For each successfully accelerated student enrolled in a
16 school district or open-enrollment charter school who exceeds the
17 threshold established by the commissioner under Subsection (d), a
18 school district or open-enrollment charter school is entitled to
19 \$500 for each successfully accelerated student who is not
20 educationally disadvantaged and \$1,000 for each successfully
21 accelerated student who is educationally disadvantaged.

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

1 (d) Using a percentile determined by the commissioner based
2 on the median performance of school districts and open-enrollment
3 charter schools on assessments administered under Section
4 39.023(a) during the 2017-2018 school year, for each subject and
5 grade the commissioner shall:

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

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

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

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

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

24 (d) A student who has demonstrated the performance standard
25 for college readiness as provided by Section 28.008 on the
26 postsecondary readiness assessment instruments adopted under
27 Section 39.0238 for Algebra II and English III, as that section

1 existed before repeal by .B._____, Acts of the 87th Legislature,
2 Regular Session, 2021, is exempt from the requirements of this
3 subchapter with respect to those content areas. The commissioner of
4 higher education by rule shall establish the period for which an
5 exemption under this subsection is valid.

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

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

10 (2) Section 39.0231; and

11 (3) Section 39.0238.

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

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

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

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