

1-1 By: Dutton (Senate Sponsor - Taylor) H.B. No. 4545  
 1-2 (In the Senate - Received from the House May 14, 2021;  
 1-3 May 17, 2021, read first time and referred to Committee on  
 1-4 Education; May 24, 2021, reported favorably by the following vote:  
 1-5 Yeas 7, Nays 2; May 24, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Taylor	X			
1-8 Lucio			X	
1-9 Bettencourt	X			
1-10 Hall	X			
1-11 Hughes	X			
1-12 Menéndez		X		
1-13 Paxton	X			
1-14 Perry	X			
1-15 Powell		X		
1-16 Schwertner	X			
1-17 West			X	

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the assessment of public school students, the  
 1-22 establishment of a strong foundations grant program, and providing  
 1-23 accelerated instruction for students who fail to achieve  
 1-24 satisfactory performance on certain assessment instruments.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. The heading to Section 28.0211, Education Code,  
 1-27 is amended to read as follows:

1-28 Sec. 28.0211. ACCELERATED LEARNING COMMITTEE [~~SATISFACTORY~~  
 1-29 ~~PERFORMANCE ON ASSESSMENT INSTRUMENTS REQUIRED~~]; ACCELERATED  
 1-30 INSTRUCTION; MODIFIED TEACHER ASSIGNMENT.

1-31 SECTION 2. Section 28.0211, Education Code, is amended by  
 1-32 amending Subsections (a), (a-1), (a-2), (a-3), (c), (f), (i), (k),  
 1-33 and (n) and adding Subsections (a-4), (a-5), (a-6), (f-1), (f-2),  
 1-34 (f-3), (f-4), (f-5), and (n-1) to read as follows:

1-35 (a) A school district shall establish an accelerated  
 1-36 learning committee described by Subsection (c) for each student who  
 1-37 does not perform satisfactorily on:

1-38 (1) the third grade mathematics or reading assessment  
 1-39 instrument under Section 39.023;

1-40 (2) [Except as provided by Subsection (b) or (c), a  
 1-41 student may not be promoted to:

1-42 [(1) the sixth grade program to which the student  
 1-43 would otherwise be assigned if the student does not perform  
 1-44 satisfactorily on] the fifth grade mathematics or [and] reading  
 1-45 assessment instrument [instruments] under Section 39.023; or

1-46 (3) [(2) the ninth grade program to which the student  
 1-47 would otherwise be assigned if the student does not perform  
 1-48 satisfactorily on] the eighth grade mathematics or [and] reading  
 1-49 assessment instrument [instruments] under Section 39.023.

1-50 (a-1) Each time a student fails to perform satisfactorily on  
 1-51 an assessment instrument administered under Section 39.023(a) in  
 1-52 the third, fourth, fifth, sixth, seventh, or eighth grade, the  
 1-53 school district in which the student attends school shall provide  
 1-54 to the student accelerated instruction in the applicable subject  
 1-55 area during the subsequent summer or school year and either:

1-56 (1) allow the student to be assigned a classroom  
 1-57 teacher who is certified as a master, exemplary, or recognized  
 1-58 teacher under Section 21.3521 for the subsequent school year in the  
 1-59 applicable subject area; or

1-60 (2) provide the student supplemental instruction  
 1-61 under Subsection (a-4).

2-1 (a-2) Accelerated instruction provided during the following  
 2-2 school year under Subsection (a-1) may require participation of the  
 2-3 student before or after normal school hours [and may include  
 2-4 participation at times of the year outside normal school  
 2-5 operations].

2-6 (a-3) In providing accelerated instruction under Subsection  
 2-7 (a-1), a district may not remove a student, except under  
 2-8 circumstances for which a student enrolled in the same grade level  
 2-9 who is not receiving accelerated instruction would be removed,  
 2-10 from:

2-11 (1) instruction in the foundation curriculum and  
 2-12 enrichment curriculum adopted under Section 28.002 for the grade  
 2-13 level in which the student is enrolled; or

2-14 (2) recess or other physical activity that is  
 2-15 available to other students enrolled in the same grade level.

2-16 (a-4) If a district receives funding under Section 29.0881,  
 2-17 the Coronavirus Response and Relief Supplemental Appropriations  
 2-18 Act, 2021 (Div. M, Pub. L. No. 116-260), or the American Rescue Plan  
 2-19 Act of 2021 (Pub. L. No. 117-2), then supplemental instruction  
 2-20 provided by a school district under Subsection (a-1)(2) must:

2-21 (1) include targeted instruction in the essential  
 2-22 knowledge and skills for the applicable grade levels and subject  
 2-23 area;

2-24 (2) be provided in addition to instruction normally  
 2-25 provided to students in the grade level in which the student is  
 2-26 enrolled;

2-27 (3) be provided for no less than 30 total hours during  
 2-28 the subsequent summer or school year and, unless the instruction is  
 2-29 provided fully during summer, include instruction no less than once  
 2-30 per week during the school year;

2-31 (4) be designed to assist the student in achieving  
 2-32 satisfactory performance in the applicable grade level and subject  
 2-33 area;

2-34 (5) include effective instructional materials  
 2-35 designed for supplemental instruction;

2-36 (6) be provided to a student individually or in a group  
 2-37 of no more than three students, unless the parent or guardian of  
 2-38 each student in the group authorizes a larger group;

2-39 (7) be provided by a person with training in the  
 2-40 applicable instructional materials for the supplemental  
 2-41 instruction and under the oversight of the school district; and

2-42 (8) to the extent possible, be provided by one person  
 2-43 for the entirety of the student's supplemental instruction period.

2-44 (a-5) If there is more than one classroom teacher available  
 2-45 in the applicable subject area to which a student who fails to  
 2-46 perform satisfactorily on an assessment instrument specified under  
 2-47 Subsection (a) could be assigned for the subsequent school year,  
 2-48 the student's parent or guardian may choose the teacher who will  
 2-49 provide the applicable instruction to the student.

2-50 ~~[(a-2) A student who fails to perform satisfactorily on an~~  
 2-51 ~~assessment instrument specified under Subsection (a) and who is~~  
 2-52 ~~promoted to the next grade level must complete accelerated~~  
 2-53 ~~instruction required under Subsection (a-1) before placement in the~~  
 2-54 ~~next grade level. A student who fails to complete required~~  
 2-55 ~~accelerated instruction may not be promoted.]~~

2-56 (a-6) [~~(a-3)~~] The commissioner shall provide guidelines to  
 2-57 school districts on research-based best practices and effective  
 2-58 strategies that a district may use in developing an accelerated  
 2-59 instruction program and shall provide resources to districts to  
 2-60 assist in the provision of an accelerated instruction program.

2-61 (c) [~~Each time a student fails to perform satisfactorily on~~  
 2-62 an assessment instrument specified under Subsection (a), the school  
 2-63 district in which the student attends school shall provide to the  
 2-64 student accelerated instruction in the applicable subject area,  
 2-65 including reading instruction for a student who fails to perform  
 2-66 satisfactorily on a reading assessment instrument.] After a  
 2-67 student fails to perform satisfactorily on an assessment instrument  
 2-68 specified under Subsection (a), an accelerated learning [~~a second~~  
 2-69 time, a grade placement] committee shall be established [~~to~~

3-1 ~~prescribe the accelerated instruction the district shall provide to~~  
 3-2 ~~the student before the student is administered the assessment~~  
 3-3 ~~instrument the third time]. The accelerated learning [grade~~  
 3-4 ~~placement] committee shall be composed of the principal or the~~  
 3-5 ~~principal's designee, the student's parent or guardian, and the~~  
 3-6 ~~teacher of the subject of an assessment instrument on which the~~  
 3-7 ~~student failed to perform satisfactorily. The district shall~~  
 3-8 ~~notify the parent or guardian of the time and place for convening~~  
 3-9 ~~the accelerated learning [grade placement] committee and the~~  
 3-10 ~~purpose of the committee. [An accelerated instruction group~~  
 3-11 ~~administered by a school district under this section may not have a~~  
 3-12 ~~ratio of more than 10 students for each teacher.]~~

3-13 (f) An accelerated learning [A school district shall  
 3-14 provide to a student who, after three attempts, has failed to  
 3-15 perform satisfactorily on an assessment instrument specified under  
 3-16 Subsection (a) accelerated instruction during the next school year  
 3-17 as prescribed by an educational plan developed for the student by  
 3-18 the student's grade placement] committee described by [established  
 3-19 under] Subsection (c) shall, not later than the start of the  
 3-20 subsequent school year, develop an[. The district shall provide  
 3-21 that accelerated instruction regardless of whether the student has  
 3-22 been promoted or retained. The] educational plan for the student  
 3-23 that provides the necessary accelerated instruction [must be  
 3-24 designed] to enable the student to perform at the appropriate grade  
 3-25 level by the conclusion of the school year.

3-26 (f-1) The educational plan under Subsection (f) must be  
 3-27 documented in writing, and a copy must be provided to the student's  
 3-28 parent or guardian.

3-29 (f-2) During the school year, the student shall be monitored  
 3-30 to ensure that the student is progressing in accordance with the  
 3-31 plan developed under Subsection (f). The district shall administer  
 3-32 to the student the assessment instrument for the grade level in  
 3-33 which the student is placed at the time the district regularly  
 3-34 administers the assessment instruments for that school year.

3-35 (f-3) The board of trustees of each school district shall  
 3-36 adopt a policy consistent with the grievance procedure adopted  
 3-37 under Section 26.011 to allow a parent to contest the content or  
 3-38 implementation of an educational plan developed under Subsection  
 3-39 (f).

3-40 (f-4) If a student who fails to perform satisfactorily on an  
 3-41 assessment instrument specified under Subsection (a) fails in the  
 3-42 subsequent school year to perform satisfactorily on an assessment  
 3-43 instrument in the same subject, the superintendent of the district,  
 3-44 or the superintendent's designee, shall meet with the student's  
 3-45 accelerated learning committee to:

3-46 (1) identify the reason the student did not perform  
 3-47 satisfactorily; and

3-48 (2) determine, in order to ensure the student performs  
 3-49 satisfactorily on the assessment instrument at the next  
 3-50 administration of the assessment instrument, whether:

3-51 (A) the educational plan developed for the  
 3-52 student under Subsection (f) must be modified to provide the  
 3-53 necessary accelerated instruction for that student; and

3-54 (B) any additional resources are required for  
 3-55 that student.

3-56 (f-5) The superintendent's designee under Subsection (f-4):

3-57 (1) may be an employee of a regional education service  
 3-58 center; and

3-59 (2) may not be a person who served on the student's  
 3-60 accelerated learning committee.

3-61 (i) The admission, review, and dismissal committee of a  
 3-62 student who participates in a district's special education program  
 3-63 under Subchapter A, Chapter 29, and who does not perform  
 3-64 satisfactorily on an assessment instrument specified under  
 3-65 Subsection (a) and administered under Section 39.023(a) or (b) must  
 3-66 meet to [before the student is administered the assessment  
 3-67 instrument for the second time. The committee shall] determine[+]

3-68 [(-)] the manner in which the student will participate  
 3-69 in an accelerated instruction program under this section[+, and

4-1 ~~[(2) whether the student will be promoted in~~  
4-2 ~~accordance with Subsection (i-1) or retained under this section].~~

4-3 (k) The commissioner may ~~[shall]~~ adopt rules as necessary to  
4-4 implement this section~~[, including rules concerning when school~~  
4-5 ~~districts shall administer assessment instruments required under~~  
4-6 ~~this section and which administration of the assessment instruments~~  
4-7 ~~will be used for purposes of Section 39.054].~~

4-8 (n) Except as provided by Subsection (n-1), a [A] student  
4-9 who fails to perform satisfactorily on an assessment instrument  
4-10 specified under Subsection (a) and is promoted to the next grade  
4-11 level [by a grade placement committee under this section] must be  
4-12 assigned in the subsequent school year in each subject in which the  
4-13 student failed to perform satisfactorily on an assessment  
4-14 instrument specified under Subsection (a) to an appropriately  
4-15 certified [a] teacher who meets all state and federal  
4-16 qualifications to teach that subject and grade.

4-17 (n-1) In a manner consistent with federal law and  
4-18 notwithstanding any other law, the commissioner may waive the  
4-19 requirement under Subsection (n) regarding the assignment of a  
4-20 student to an appropriately certified classroom teacher on the  
4-21 request of a school district.

4-22 SECTION 3. Section 28.0217, Education Code, is amended to  
4-23 read as follows:

4-24 Sec. 28.0217. ACCELERATED INSTRUCTION FOR HIGH SCHOOL  
4-25 STUDENTS. (a) Each time a student fails to perform satisfactorily  
4-26 on an assessment instrument administered under Section 39.023(c),  
4-27 the school district in which the student attends school shall  
4-28 provide to the student accelerated instruction in the applicable  
4-29 subject area~~[, using funds appropriated for accelerated~~  
4-30 ~~instruction under Section 28.0211].~~

4-31 (b) Accelerated instruction provided under this section:

4-32 (1) may require participation of the student before or  
4-33 after normal school hours and may include participation at times of  
4-34 the year outside normal school operations; and

4-35 (2) must comply with the requirements for accelerated  
4-36 instruction provided under Section 28.0211.

4-37 SECTION 4. Subchapter C, Chapter 29, Education Code, is  
4-38 amended by adding Section 29.0881 to read as follows:

4-39 Sec. 29.0881. STRONG FOUNDATIONS GRANT PROGRAM. (a) The  
4-40 commissioner shall establish and administer a strong foundations  
4-41 grant program for campuses or a program at a campus serving students  
4-42 enrolled in prekindergarten through grade five to implement a  
4-43 rigorous school approach that combines high-quality instruction,  
4-44 materials, and support structures.

4-45 (b) The commissioner shall adopt components that school  
4-46 districts, open-enrollment charter schools, and campuses of the  
4-47 districts or schools must implement under the strong foundations  
4-48 grant program. The components must include:

4-49 (1) use of high-quality instructional materials,  
4-50 curricula, and curricular tools;

4-51 (2) use of aligned diagnostic and formative  
4-52 assessments;

4-53 (3) aligned professional supports;

4-54 (4) practices designed to ensure high-quality  
4-55 supports for students with disabilities;

4-56 (5) evidence-based practices to increase and maintain  
4-57 parental engagement; and

4-58 (6) measurement of fidelity of implementation of the  
4-59 program.

4-60 (c) Grants provided under the strong foundations grant  
4-61 program may be in the form of funds, in-kind resources, or both.

4-62 (d) The commissioner shall use funds appropriated, federal  
4-63 funds, and other funds available for the strong foundations grant  
4-64 program to assist school districts and open-enrollment charter  
4-65 schools in implementing the program.

4-66 (e) A school district or open-enrollment charter school  
4-67 that receives grant funds under this section may use the funds to:

4-68 (1) financially support or train or otherwise prepare  
4-69 educators and other staff;

5-1 (2) pay for agreements with other entities to provide  
 5-2 prekindergarten services; or

5-3 (3) pay for accelerated instruction provided under  
 5-4 Section 28.0211 or 28.0217.

5-5 (f) The commissioner may accept gifts, grants, and  
 5-6 donations from any source, including private and nonprofit  
 5-7 organizations, for the program. A private or nonprofit  
 5-8 organization that contributes to the program may receive an award  
 5-9 under Section 7.113.

5-10 SECTION 5. Section 39.025(b-1), Education Code, is amended  
 5-11 to read as follows:

5-12 (b-1) A school district shall provide each student who fails  
 5-13 to perform satisfactorily as determined by the commissioner under  
 5-14 Section 39.0241(a) on an end-of-course assessment instrument with  
 5-15 accelerated instruction under Section 28.0217 in the subject  
 5-16 assessed by the assessment instrument.

5-17 SECTION 6. Section 39.301(c), Education Code, is amended to  
 5-18 read as follows:

5-19 (c) Indicators for reporting purposes must include:

5-20 (1) the percentage of graduating students who meet the  
 5-21 course requirements established by State Board of Education rule  
 5-22 for:

5-23 (A) the foundation high school program;

5-24 (B) the distinguished level of achievement under  
 5-25 the foundation high school program; and

5-26 (C) each endorsement described by Section  
 5-27 28.025(c-1);

5-28 (2) the results of the SAT, ACT, and certified  
 5-29 workforce training programs described by Chapter 311, Labor Code;

5-30 (3) for students who have failed to perform  
 5-31 satisfactorily, under each performance standard under Section  
 5-32 39.0241, on an assessment instrument required under Section  
 5-33 39.023(a) or (c), the performance of those students on subsequent  
 5-34 assessment instruments required under those sections, aggregated  
 5-35 by grade level and subject area;

5-36 (4) for each campus, the number of students,  
 5-37 disaggregated by major student subpopulations, that take courses  
 5-38 under the foundation high school program and take additional  
 5-39 courses to earn an endorsement under Section 28.025(c-1),  
 5-40 disaggregated by type of endorsement;

5-41 (5) the percentage of students, aggregated by grade  
 5-42 level, provided accelerated instruction under Section 28.0211  
 5-43 [~~28.0211(c)~~], the results of assessment instruments administered  
 5-44 under that section, [~~the percentage of students promoted through~~  
 5-45 ~~the grade placement committee process under Section 28.0211,~~] the  
 5-46 subject of the assessment instrument on which each student failed  
 5-47 to perform satisfactorily under each performance standard under  
 5-48 Section 39.0241, and the performance of those students in the  
 5-49 subsequent school year [~~following that promotion~~] on the assessment  
 5-50 instruments required under Section 39.023;

5-51 (6) the percentage of students of limited English  
 5-52 proficiency exempted from the administration of an assessment  
 5-53 instrument under Sections 39.027(a)(1) and (2);

5-54 (7) the percentage of students in a special education  
 5-55 program under Subchapter A, Chapter 29, assessed through assessment  
 5-56 instruments developed or adopted under Section 39.023(b);

5-57 (8) the percentage of students who satisfy the college  
 5-58 readiness measure;

5-59 (9) the measure of progress toward dual language  
 5-60 proficiency under Section 39.034(b), for students of limited  
 5-61 English proficiency, as defined by Section 29.052;

5-62 (10) the percentage of students who are not  
 5-63 educationally disadvantaged;

5-64 (11) the percentage of students who enroll and begin  
 5-65 instruction at an institution of higher education in the school  
 5-66 year following high school graduation; and

5-67 (12) the percentage of students who successfully  
 5-68 complete the first year of instruction at an institution of higher  
 5-69 education without needing a developmental education course.

6-1 SECTION 7. Section 39A.051(b), Education Code, is amended  
6-2 to read as follows:

6-3 (b) For a campus described by Subsection (a), the  
6-4 commissioner, to the extent the commissioner determines necessary,  
6-5 may:

6-6 (1) order a hearing to be held before the commissioner  
6-7 or the commissioner's designee at which the president of the board  
6-8 of trustees of the school district, the district superintendent,  
6-9 and the campus principal shall appear and explain the campus's low  
6-10 performance, lack of improvement, and plans for improvement; [~~or~~]

6-11 (2) establish a school community partnership team  
6-12 composed of members of the campus-level planning and  
6-13 decision-making committee established under Section 11.251 and  
6-14 additional community representatives as determined appropriate by  
6-15 the commissioner;

6-16 (3) if applicable under Section 39A.064, require the  
6-17 school district to comply with all requirements of the strong  
6-18 foundations grant program under Section 29.0881 for the campus; or

6-19 (4) any combination of the actions described by  
6-20 Subdivisions (1) through (3).

6-21 SECTION 8. Subchapter B, Chapter 39A, Education Code, is  
6-22 amended by adding Section 39A.064 to read as follows:

6-23 Sec. 39A.064. STRONG FOUNDATIONS INTERVENTION FOR CERTAIN  
6-24 CAMPUSES. (a) Notwithstanding Section 39A.0545(b) or any other  
6-25 law, the commissioner may require a school district or  
6-26 open-enrollment charter school to comply with all requirements of  
6-27 the strong foundations grant program under Section 29.0881 at a  
6-28 campus that:

6-29 (1) includes students at any grade level from  
6-30 prekindergarten through fifth grade;

6-31 (2) is assigned an overall performance rating of D or  
6-32 F; and

6-33 (3) is in the bottom five percent of campuses in the  
6-34 state based on student performance on the grade three reading  
6-35 assessment administered under Section 39.023(a) during the  
6-36 previous school year, as determined by the commissioner.

6-37 (b) If funds are appropriated for the purpose, the  
6-38 commissioner shall award a grant under Section 29.0881 to any  
6-39 campus required to implement the requirements of the program under  
6-40 this section.

6-41 (c) The commissioner shall adopt rules to determine whether  
6-42 a school district or open-enrollment charter school is complying  
6-43 adequately with the requirements under this section.

6-44 SECTION 9. Section 51.338(d), Education Code, is amended to  
6-45 read as follows:

6-46 (d) A student who has demonstrated the performance standard  
6-47 for college readiness as provided by Section 28.008 on the  
6-48 postsecondary readiness assessment instruments adopted under  
6-49 Section 39.0238 for Algebra II and English III, as that section  
6-50 existed before repeal by H.B. 4545, Acts of the 87th Legislature,  
6-51 Regular Session, 2021, is exempt from the requirements of this  
6-52 subchapter with respect to those content areas. The commissioner  
6-53 of higher education by rule shall establish the period for which an  
6-54 exemption under this subsection is valid.

6-55 SECTION 10. The following provisions of the Education Code  
6-56 are repealed:

6-57 (1) Sections 28.0211(b), (d), (e), (i-1), (i-2), (m),  
6-58 and (m-1);

6-59 (2) Section 39.0231; and

6-60 (3) Section 39.0238.

6-61 SECTION 11. As soon as practicable after the effective date  
6-62 of this Act, the board of trustees of a school district shall adopt  
6-63 a policy as required by Section 28.0211(f-3), Education Code, as  
6-64 added by this Act.

6-65 SECTION 12. This Act applies beginning with the 2021-2022  
6-66 school year.

6-67 SECTION 13. This Act takes effect immediately if it  
6-68 receives a vote of two-thirds of all the members elected to each  
6-69 house, as provided by Section 39, Article III, Texas Constitution.

7-1 If this Act does not receive the vote necessary for immediate  
7-2 effect, this Act takes effect September 1, 2021.

7-3

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