

1-1 By: Bell of Kaufman, et al. H.B. No. 1416
 1-2 (Senate Sponsor - Paxton)
 1-3 (In the Senate - Received from the House April 24, 2023;
 1-4 May 1, 2023, read first time and referred to Committee on
 1-5 Education; May 12, 2023, reported adversely, with favorable
 1-6 Committee Substitute by the following vote: Yeas 12, Nays 1;
 1-7 May 12, 2023, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17		X		
1-18	X			
1-19	X			
1-20	X			
1-21	X			
1-22	X			

1-23 COMMITTEE SUBSTITUTE FOR H.B. No. 1416 By: Springer

1-24 A BILL TO BE ENTITLED
 1-25 AN ACT

1-26 relating to accelerated instruction provided to public school
 1-27 students who fail to achieve satisfactory performance on certain
 1-28 assessment instruments.

1-29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-30 SECTION 1. The heading to Section 28.0211, Education Code,
 1-31 is amended to read as follows:

1-32 Sec. 28.0211. [~~ACCELERATED LEARNING COMMITTEE,~~
 1-33 ACCELERATED INSTRUCTION; MODIFIED TEACHER ASSIGNMENT.]

1-34 SECTION 2. Section 28.0211, Education Code, is amended by
 1-35 amending Subsections (a), (a-1), (a-4), (a-5), (f), (f-1), (f-2),
 1-36 (f-3), (g), (h), (i), (j), (k), and (n) and adding Subsections
 1-37 (a-7), (a-8), (a-9), (a-10), (a-11), (a-12), (a-13), (a-14), (b),
 1-38 (b-1), (i-1), (l), (q), and (r) to read as follows:

1-39 (a) To ensure that each student achieves at least
 1-40 satisfactory performance on each assessment instrument
 1-41 administered under Section 39.023, a [A] school district shall
 1-42 ensure that the district's curricular and instructional systems
 1-43 provide instruction to all students that:

1-44 (1) is consistently aligned with the essential
 1-45 knowledge and skills for the applicable subject area and grade
 1-46 level; and

1-47 (2) strategically and timely addresses deficiencies
 1-48 in the prerequisite essential knowledge and skills for the
 1-49 applicable subject area and grade level [~~establish an accelerated~~
 1-50 learning committee described by Subsection (c) for each student who
 1-51 does not perform satisfactorily on:

1-52 [(1) the third grade mathematics or reading assessment
 1-53 instrument under Section 39.023,

1-54 [(2) the fifth grade mathematics or reading assessment
 1-55 instrument under Section 39.023, or

1-56 [(3) the eighth grade mathematics or reading
 1-57 assessment instrument under Section 39.023].

1-58 (a-1) Each time a student fails to perform satisfactorily on
 1-59 an assessment instrument administered under Section 39.023(a) or
 1-60 (1) in the third, fourth, fifth, sixth, seventh, or eighth grade or

2-1 an end-of-course assessment instrument administered under Section
 2-2 39.023(c), other than an assessment instrument developed or adopted
 2-3 based on alternative academic achievement standards, the school
 2-4 district in which the student attends school shall provide to the
 2-5 student accelerated instruction in the applicable subject area
 2-6 during the subsequent summer or school year and, subject to
 2-7 Subsections (a-7) and (a-8), either:

2-8 (1) allow the student to be assigned a classroom
 2-9 teacher who is certified as a master, exemplary, or recognized
 2-10 teacher under Section 21.3521 for the subsequent school year in the
 2-11 applicable subject area; or

2-12 (2) provide the student supplemental instruction
 2-13 under Subsection (a-4).

2-14 (a-4) If a district receives funding under Section 29.0881
 2-15 or 48.104, the Coronavirus Response and Relief Supplemental
 2-16 Appropriations Act, 2021 (Div. M, Pub. L. No. 116-260), or the
 2-17 American Rescue Plan Act of 2021 (Pub. L. No. 117-2), then
 2-18 supplemental instruction provided by a school district under
 2-19 Subsection (a-1)(2) must:

2-20 (1) include targeted instruction in the essential
 2-21 knowledge and skills for the applicable grade levels and subject
 2-22 area;

2-23 (2) be provided in addition to instruction normally
 2-24 provided to students in the grade level in which the student is
 2-25 enrolled;

2-26 (3) be provided [~~for no less than 30 total hours~~]
 2-27 during the subsequent summer or school year:

2-28 (A) to each student for no less than:

2-29 (i) 15 hours; or

2-30 (ii) 30 hours for a student whose
 2-31 performance on the applicable assessment instrument was
 2-32 significantly below satisfactory, as defined by commissioner rule;
 2-33 and

2-34 (B) [~~7~~] unless the instruction is provided to a
 2-35 student fully during summer, [~~include instruction~~] no less than
 2-36 once per week during the school year, except as otherwise provided
 2-37 by commissioner rule to account for school holidays or shortened
 2-38 school weeks;

2-39 (4) be designed to assist the student in achieving
 2-40 satisfactory performance in the applicable grade level and subject
 2-41 area;

2-42 (5) include effective instructional materials
 2-43 designed for supplemental instruction;

2-44 (6) be provided to a student individually or in a group
 2-45 of no more than four [~~three~~] students, unless the parent or guardian
 2-46 of each student in the group authorizes a larger group;

2-47 (7) be provided by a person with training in the
 2-48 applicable instructional materials for the supplemental
 2-49 instruction and under the oversight of the school district; and

2-50 (8) to the extent possible, be provided by one person
 2-51 for the entirety of the student's supplemental instruction period.

2-52 (a-5) Each school district shall establish a process
 2-53 allowing for the parent or guardian of a student who fails to
 2-54 perform satisfactorily on an assessment instrument specified under
 2-55 Subsection (a-1) [~~(a)~~] to make a request for district consideration
 2-56 that the student be assigned to a particular classroom teacher in
 2-57 the applicable subject area for the subsequent school year, if more
 2-58 than one classroom teacher is available.

2-59 (a-7) The requirements under Subsection (a-1)(1) or (2) do
 2-60 not apply to a student who is retained at a grade level for the
 2-61 school year in which those requirements would otherwise apply.

2-62 (a-8) A school district may not be required to provide
 2-63 supplemental instruction under Subsection (a-1)(2) to a student in
 2-64 more than two subject areas per school year. If the district would
 2-65 otherwise be required to provide supplemental instruction to a
 2-66 student in more than two subject areas for a school year, the
 2-67 district shall prioritize providing supplemental instruction to
 2-68 the student in mathematics and reading, or Algebra I, English I, or
 2-69 English II, as applicable, for that school year.

3-1 (a-9) A parent or guardian of a student to whom supplemental
 3-2 instruction will be provided under Subsection (a-1)(2) and who
 3-3 either was administered and failed to perform satisfactorily on an
 3-4 assessment instrument specified under Subsection (a-1) or was
 3-5 administered a beginning-of-year assessment instrument aligned
 3-6 with the essential knowledge and skills for the applicable subject
 3-7 area, including a student to whom Subsection (b) applies, may elect
 3-8 to modify or remove a requirement for that instruction under
 3-9 Subsection (a-4) by submitting a written request to an
 3-10 administrator of the campus at which the student is enrolled. A
 3-11 school district may not encourage or direct a parent or guardian to
 3-12 make an election under this subsection that would allow the
 3-13 district to:

3-14 (1) not provide supplemental instruction to the
 3-15 student; or

3-16 (2) provide supplemental instruction in a group larger
 3-17 than authorized under Subsection (a-4)(6).

3-18 (a-10) A school district is not required to provide
 3-19 accelerated instruction under Subsection (a-1) to a student who,
 3-20 instead of being administered an assessment instrument specified
 3-21 under Subsection (a-1), was administered a substitute assessment
 3-22 instrument in accordance with other law or agency rule authorizing
 3-23 the use of the substitute assessment instrument for purposes of
 3-24 satisfying the requirements concerning the applicable assessment
 3-25 instrument under Subsection (a-1).

3-26 (a-11) The agency shall approve one or more products that
 3-27 use an automated, computerized, or other augmented method for
 3-28 providing supplemental instruction under Subsection (a-1)(2) that
 3-29 may be used in lieu of some or all of the individual or group
 3-30 instruction required under Subsection (a-4)(6), as appropriate for
 3-31 the applicable grade level and subject area and a student's
 3-32 academic deficiency. The agency may approve a product under this
 3-33 subsection only if evidence indicates that the product is more
 3-34 effective than the individual or group instruction required under
 3-35 Subsection (a-4)(6). The commissioner shall adopt rules regarding
 3-36 when a product approved under this subsection may be used and the
 3-37 requirements under Subsection (a-4) for which the product may be
 3-38 substituted.

3-39 (a-12) For the purpose of providing accelerated instruction
 3-40 or supplemental instruction under this section, a school district
 3-41 may use a service provider that is not on a list of service
 3-42 providers approved by the agency if the district can demonstrate to
 3-43 the commissioner that use of the service provider results in
 3-44 measurable improvement in student outcomes.

3-45 (a-13) A school district that is required to provide to a
 3-46 student accelerated instruction under Subsection (a-1) or
 3-47 supplemental instruction under Subsection (a-1)(2) is not required
 3-48 to provide additional instruction under either provision to the
 3-49 student based on the student's failure to perform satisfactorily on
 3-50 an assessment instrument administered as an optional assessment in
 3-51 the same subject area in which the district is required to provide
 3-52 the student the accelerated or supplemental instruction.

3-53 (a-14) A school district shall provide to the parent or
 3-54 guardian of a student who fails to perform satisfactorily on an
 3-55 assessment instrument specified under Subsection (a-1) notice that
 3-56 the student is not performing on grade level in the applicable
 3-57 subject area. Notwithstanding Subsection (h), the district must
 3-58 provide the notice at a parent-teacher conference or, if the
 3-59 district is unable to provide the notice at a parent-teacher
 3-60 conference, by another means. The agency shall develop and provide
 3-61 to school districts a model notice in plain language for use under
 3-62 this section.

3-63 (b) For each student who does not perform satisfactorily on
 3-64 an assessment instrument specified under Subsection (a-1) for two
 3-65 or more consecutive school years in the same subject area, the
 3-66 school district the student attends shall develop an accelerated
 3-67 education plan as described by Subsection (f).

3-68 (b-1) A school district shall make a good faith attempt to
 3-69 provide to the parent or guardian of a student to whom Subsection

4-1 (b) applies a parent-teacher conference with the student's primary
4-2 teacher at the start and end of the subsequent school year. At the
4-3 conference, the district shall provide the student's parent or
4-4 guardian with:

4-5 (1) the notice required under Subsection (a-14); and
4-6 (2) an explanation of:

4-7 (A) the accelerated instruction to which the
4-8 student is entitled under this section; and
4-9 (B) the accelerated education plan that must be
4-10 developed for the student under Subsection (f) and the manner in
4-11 which the parent or guardian may participate in developing the
4-12 plan.

4-13 (f) ~~Not [An accelerated learning committee described by~~
4-14 ~~Subsection (c) shall, not]~~ later than the start of the subsequent
4-15 school year, a school district shall develop an accelerated
4-16 education [educational] plan for each [the] student to whom
4-17 Subsection (b) applies that provides the necessary accelerated
4-18 instruction to enable the student to perform at the appropriate
4-19 grade or course level by the conclusion of the school year. The
4-20 plan:

4-21 (1) must:

4-22 (A) identify the reason the student did not
4-23 perform satisfactorily on the applicable assessment instrument
4-24 specified under Subsection (a-1); and
4-25 (B) notwithstanding Subsection (a-4)(3)(A),
4-26 require the student to be provided with no less than 30 hours, or a
4-27 greater number of hours if appropriate, of supplemental instruction
4-28 under Subsection (a-4) for each consecutive school year in which
4-29 the student does not perform satisfactorily on the assessment
4-30 instrument in the applicable subject area specified under
4-31 Subsection (a-1); and
4-32 (2) may require that, as appropriate to ensure the
4-33 student performs satisfactorily on the assessment instrument in the
4-34 applicable subject area specified under Subsection (a-1) at the
4-35 next administration of the assessment instrument:

4-36 (A) the district expand the times in which
4-37 supplemental instruction under Subsection (a-4) is available to the
4-38 student;

4-39 (B) the student be assigned for the school year
4-40 to a specific teacher who is better able to provide accelerated
4-41 instruction; and
4-42 (C) the district provide any necessary
4-43 additional resources to the student.

4-44 (f-1) The accelerated education [educational] plan under
4-45 Subsection (f) must be documented in writing, and a copy must be
4-46 provided to the student's parent or guardian.

4-47 (f-2) During the school year, the student shall be monitored
4-48 to ensure that the student is progressing in accordance with the
4-49 accelerated education plan developed under Subsection (f). ~~[The~~
4-50 ~~district shall administer to the student the assessment instrument~~
4-51 ~~for the grade level in which the student is placed at the time the~~
4-52 ~~district regularly administers the assessment instruments for that~~
4-53 ~~school year.]~~

4-54 (f-3) The board of trustees of each school district shall
4-55 adopt a policy consistent with the grievance procedure adopted
4-56 under Section 26.011 to allow a parent to contest the content or
4-57 implementation of an accelerated education [educational] plan
4-58 developed under Subsection (f).

4-59 (g) This section does not preclude the retention at a grade
4-60 level, in accordance with state law or school district policy, of a
4-61 student who performs satisfactorily on an assessment instrument
4-62 specified under Subsection (a-1) [~~(a)~~].

4-63 (h) In each instance under this section in which a school
4-64 district is specifically required to provide notice or a written
4-65 copy to a parent or guardian of a student, the district shall make a
4-66 good faith effort to ensure that such notice or copy is provided
4-67 either in person or by regular mail and that the notice or copy is
4-68 clear and easy to understand and is written in English or the parent
4-69 or guardian's native language.

5-1 (i) The admission, review, and dismissal committee of a
 5-2 student who participates in a district's special education program
 5-3 under Subchapter A, Chapter 29, and who does not perform
 5-4 satisfactorily on an assessment instrument specified under
 5-5 Subsection (a-1) shall, at the student's next annual review
 5-6 meeting, review the student's participation and progress in, as
 5-7 applicable, accelerated instruction provided under Subsection (a),
 5-8 supplemental instruction provided under Subsection (a-1)(2), or an
 5-9 accelerated education plan developed under Subsection (f). The
 5-10 student's parent may request, or the district may schedule, an
 5-11 additional committee meeting if a committee member believes that
 5-12 the student's individualized education program needs to be modified
 5-13 based on the requirements under this section. If the district
 5-14 refuses to convene a committee meeting requested by the student's
 5-15 parent under this subsection, the district shall provide the parent
 5-16 with written notice explaining the reason the district refuses to
 5-17 convene the meeting [~~(a) and administered under Section 39.023(a)~~
 5-18 ~~or (b) must meet to determine the manner in which the student will~~
 5-19 ~~participate in an accelerated instruction program under this~~
 5-20 ~~section].~~

5-21 (i-1) If a student who attends school in a homebound or
 5-22 other off-campus instructional arrangement, including at a
 5-23 residential treatment campus or state hospital, is unable to
 5-24 participate in an accelerated instruction program required under
 5-25 this section due to the student's medical condition, the school
 5-26 district may determine that the student be provided the accelerated
 5-27 instruction when the student attends school in an on-campus
 5-28 instructional setting. If the student's medical condition prevents
 5-29 the student from attending school in an on-campus instructional
 5-30 setting for the school year during which the accelerated
 5-31 instruction is required to be provided to the student, the district
 5-32 is not required to provide the accelerated instruction to the
 5-33 student for that school year.

5-34 (j) A school district or open-enrollment charter school
 5-35 shall provide students required to attend accelerated programs
 5-36 under this section with transportation to those programs if the
 5-37 programs occur outside of regular school hours, unless the district
 5-38 or school does not operate, or contract or agree with another entity
 5-39 to operate, a transportation system.

5-40 (k) The commissioner may adopt rules as necessary to
 5-41 implement this section, including rules for required reporting
 5-42 necessary to support student transfers.

5-43 (l) The agency shall monitor and evaluate the effectiveness
 5-44 of the accelerated instruction required under this section.

5-45 (n) Except as requested under Subsection (a-5) or provided
 5-46 by Subsection (n-1), a student for whom an accelerated education
 5-47 plan must be developed [~~who fails to perform satisfactorily on an~~
 5-48 ~~assessment instrument specified]~~ under Subsection (b) [~~(a) and is~~
 5-49 ~~promoted to the next grade level]~~ must be assigned, in each [~~the~~
 5-50 ~~subsequent]~~ school year and [~~in each]~~ subject covered by the
 5-51 accelerated education plan, [~~in which the student failed to perform~~
 5-52 ~~satisfactorily on an assessment instrument specified under~~
 5-53 ~~Subsection (a)]~~ to an appropriately certified teacher who meets all
 5-54 state and federal qualifications to teach that subject and grade.

5-55 (q) The commissioner may waive the requirements under this
 5-56 section regarding accelerated instruction for a school district for
 5-57 each school year in which at least 60 percent of the students who
 5-58 received accelerated instruction during the school year
 5-59 immediately preceding the previous school year, including at least
 5-60 60 percent of students whose performance on the applicable
 5-61 assessment instrument was significantly below satisfactory, as
 5-62 defined by commissioner rule, performed satisfactorily in the
 5-63 previous school year on the assessment instrument in each subject
 5-64 in which the student previously failed to perform satisfactorily.
 5-65 For purposes of determining whether a school district qualifies for
 5-66 a waiver under this subsection, the commissioner shall:

5-67 (1) if a student received accelerated instruction in
 5-68 more than one subject during the applicable school year, consider
 5-69 the student's performance on the assessment instrument in each

6-1 subject separately from the student's performance on the assessment
6-2 instrument for each other subject; and
6-3 (2) by rule provide that a school district may not
6-4 qualify for a waiver if students who are receiving special
6-5 education services or are educationally disadvantaged are
6-6 overrepresented among the students in the district who received
6-7 accelerated instruction during the school year immediately
6-8 preceding the previous school year and did not perform
6-9 satisfactorily in the previous school year on the assessment
6-10 instrument in each applicable subject.

6-11 (r) Not later than the beginning of each school year, the
6-12 commissioner shall publish a list of school districts that qualify
6-13 for a waiver under Subsection (q).

6-14 SECTION 3. Section 29.0881(e), Education Code, is amended
6-15 to read as follows:

6-16 (e) A school district or open-enrollment charter school
6-17 that receives grant funds under this section may use the funds to:

6-18 (1) financially support or train or otherwise prepare
6-19 educators and other staff;

6-20 (2) pay for agreements with other entities to provide
6-21 prekindergarten services; or

6-22 (3) pay for accelerated instruction provided under
6-23 Section 28.0211 [~~or 28.0217~~].

6-24 SECTION 4. Section 39.025(b-1), Education Code, is amended
6-25 to read as follows:

6-26 (b-1) A school district shall provide each student who fails
6-27 to perform satisfactorily as determined by the commissioner under
6-28 Section 39.0241(a) on an end-of-course assessment instrument with
6-29 accelerated instruction under Section 28.0211 [~~28.0217~~] in the
6-30 subject assessed by the assessment instrument.

6-31 SECTION 5. The following provisions of the Education Code
6-32 are repealed:

6-33 (1) Sections 28.0211(c), (f-4), and (f-5); and

6-34 (2) Section 28.0217.

6-35 SECTION 6. The changes in law made by this Act to Section
6-36 28.0211, Education Code, apply beginning with assessment
6-37 instruments administered during the 2023 spring semester.

6-38 SECTION 7. The repeal by this Act of Section 28.0217,
6-39 Education Code, applies beginning with the 2023-2024 school year.

6-40 SECTION 8. (a) Notwithstanding any other section of this
6-41 Act, in a state fiscal year, the Texas Education Agency is not
6-42 required to implement a provision found in another section of this
6-43 Act that is drafted as a mandatory provision imposing a duty on the
6-44 agency to take an action unless money is specifically appropriated
6-45 to the agency for that fiscal year to carry out that duty. The Texas
6-46 Education Agency may implement the provision in that fiscal year to
6-47 the extent other funding is available to the agency to do so.

6-48 (b) If, as authorized by Subsection (a) of this section, the
6-49 Texas Education Agency does not implement the mandatory provision
6-50 in a state fiscal year, the agency, in its legislative budget
6-51 request for the next state fiscal biennium, shall certify that fact
6-52 to the Legislative Budget Board and include a written estimate of
6-53 the costs of implementing the provision in each year of that next
6-54 state fiscal biennium.

6-55 (c) This section and the suspension of the Texas Education
6-56 Agency's duty to implement a mandatory provision of this Act, as
6-57 provided by Subsection (a) of this section, expires and the duty to
6-58 implement the mandatory provision resumes on September 1, 2027.

6-59 SECTION 9. This Act takes effect immediately if it receives
6-60 a vote of two-thirds of all the members elected to each house, as
6-61 provided by Section 39, Article III, Texas Constitution. If this
6-62 Act does not receive the vote necessary for immediate effect, this
6-63 Act takes effect September 1, 2023.

6-64 * * * * *