

By: Menéndez

S.B. No. 149

A BILL TO BE ENTITLED

AN ACT

relating to special education funding under the Foundation School Program.

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

SECTION 1. Section 8.051(d), Education Code, is amended to read as follows:

(d) Each regional education service center shall maintain core services for purchase by school districts and campuses. The core services are:

(1) training and assistance in:

(A) teaching each subject area assessed under Section 39.023; and

(B) providing instruction in personal financial literacy as required under Section 28.0021;

(2) training and assistance in providing each program that qualifies for a funding allotment under Section 48.102, 48.1021, 48.103, 48.104, 48.105, or 48.109;

(3) assistance specifically designed for a school district or campus assigned an unacceptable performance rating under Section 39.054;

(4) training and assistance to teachers, administrators, members of district boards of trustees, and members of site-based decision-making committees;

(5) assistance specifically designed for a school

1 district that is considered out of compliance with state or federal
2 special education requirements, based on the agency's most recent
3 compliance review of the district's special education programs; and

4 (6) assistance in complying with state laws and rules.

5 SECTION 2. Section 29.002, Education Code, is amended to
6 read as follows:

7 Sec. 29.002. DEFINITION. In this subchapter, "special
8 services" means:

9 (1) special education instruction, which may be
10 provided by professional and supported by paraprofessional
11 personnel in a general education setting [~~the regular classroom~~] or
12 in a special education setting, as defined by commissioner rule [~~an~~
13 ~~instructional arrangement described by Section 48.102~~]; and

14 (2) related services, which are developmental,
15 corrective, supportive, or evaluative services, not instructional
16 in nature, that may be required for the student to benefit from
17 special education instruction and for implementation of a student's
18 individualized education program.

19 SECTION 3. Section 29.014(d), Education Code, is amended to
20 read as follows:

21 (d) The basic allotment for a student enrolled in a district
22 to which this section applies is adjusted by the tier of intensity
23 of service defined in accordance with [~~weight for a homebound~~
24 ~~student under~~] Section 48.102 and designated by commissioner rule
25 for use under this section [~~48.102(a)~~].

26 SECTION 4. Section 29.022(u)(3), Education Code, is amended
27 to read as follows:

1 (3) "Self-contained classroom" does not include a
2 classroom that is a resource room as defined by commissioner rule
3 [~~instructional arrangement under Section 48.102~~].

4 SECTION 5. Section 29.316(c), Education Code, is amended to
5 read as follows:

6 (c) Not later than August 31 of each year, the agency, the
7 division, and the center jointly shall prepare and post on the
8 agency's, the division's, and the center's respective Internet
9 websites a report on the language acquisition of children eight
10 years of age or younger who are deaf or hard of hearing. The report
11 must:

12 (1) include:

13 (A) existing data reported in compliance with
14 federal law regarding children with disabilities; and

15 (B) information relating to the language
16 acquisition of children who are deaf or hard of hearing and also
17 have other disabilities;

18 (2) state for each child:

19 (A) the educational setting [~~instructional~~
20 ~~arrangement~~] used with the child, as defined by commissioner rule
21 [~~described by Section 48.102~~], including the time the child spends
22 on average in a general education setting [~~mainstream instructional~~
23 ~~arrangement~~];

24 (B) the specific language acquisition services
25 provided to the child, including:

26 (i) the time spent providing those
27 services; and

1 (ii) a description of any hearing
2 amplification used in the delivery of those services, including:

3 (a) the type of hearing amplification
4 used;

5 (b) the period of time in which the
6 child has had access to the hearing amplification; and

7 (c) the average amount of time the
8 child uses the hearing amplification each day;

9 (C) the tools or assessments used to assess the
10 child's language acquisition and the results obtained;

11 (D) the preferred unique communication mode used
12 by the child at home; and

13 (E) the child's age, race, and gender, the age at
14 which the child was identified as being deaf or hard of hearing, and
15 any other relevant demographic information the commissioner
16 determines to likely be correlated with or have an impact on the
17 child's language acquisition;

18 (3) compare progress in English literacy made by
19 children who are deaf or hard of hearing to progress in that subject
20 made by children of the same age who are not deaf or hard of hearing,
21 by appropriate age range; and

22 (4) be redacted as necessary to comply with state and
23 federal law regarding the confidentiality of student medical or
24 educational information.

25 SECTION 6. Subchapter A, Chapter 48, Education Code, is
26 amended by adding Section 48.0055 to read as follows:

27 Sec. 48.0055. ENROLLMENT-BASED FUNDING. The commissioner

1 by rule shall establish the method for determining average
2 enrollment for purposes of funding provided based on average
3 enrollment under Chapter 46 and this chapter.

4 SECTION 7. Section 48.051(a), Education Code, is amended to
5 read as follows:

6 (a) For each student in average daily attendance, not
7 including the time students spend each day in career and technology
8 education programs or in special education programs receiving
9 special education services in a setting [~~an instructional~~
10 ~~arrangement~~] other than a general education setting [~~mainstream or~~
11 ~~career and technology education programs~~], for which an additional
12 allotment is made under Subchapter C, a school district is entitled
13 to an allotment equal to the lesser of \$6,160 or the amount that
14 results from the following formula:

15
$$A = \$6,160 \times TR/MCR$$

16 where:

17 "A" is the allotment to which a district is entitled;

18 "TR" is the district's tier one maintenance and operations
19 tax rate, as provided by Section 45.0032; and

20 "MCR" is the district's maximum compressed tax rate, as
21 determined under Section 48.2551.

22 SECTION 8. Section 48.102, Education Code, is amended to
23 read as follows:

24 Sec. 48.102. SPECIAL EDUCATION. (a) For each student in
25 average enrollment [~~daily attendance~~] in a special education
26 program under Subchapter A, Chapter 29, [~~in a mainstream~~
27 ~~instructional arrangement~~], a school district is entitled to an

1 annual allotment equal to the basic allotment, or, if applicable,
 2 the sum of the basic allotment and the allotment under Section
 3 48.101 to which the district is entitled, multiplied by the weight
 4 assigned under Subsection (c) to the highest tier of intensity of
 5 service for which the student qualifies ~~[1.15]~~.

6 (a-1) Notwithstanding Subsection (a), for the 2026-2027 and
 7 2027-2028 school years, the amount of an allotment under this
 8 section shall be determined in accordance with Section 48.1022.
 9 This subsection expires September 1, 2028. ~~[For each full-time~~
 10 ~~equivalent student in average daily attendance in a special~~
 11 ~~education program under Subchapter A, Chapter 29, in an~~
 12 ~~instructional arrangement other than a mainstream instructional~~
 13 ~~arrangement, a district is entitled to an annual allotment equal to~~
 14 ~~the basic allotment, or, if applicable, the sum of the basic~~
 15 ~~allotment and the allotment under Section 48.101 to which the~~
 16 ~~district is entitled, multiplied by a weight determined according~~
 17 ~~to instructional arrangement as follows:~~

18	[Homebound	5.0
19	[Hospital class	3.0
20	[Speech therapy	5.0
21	[Resource room	3.0
22	[Self-contained, mild and moderate, regular campus	3.0
23	[Self-contained, severe, regular campus	3.0
24	[Off home campus	2.7
25	[Nonpublic day school	1.7
26	[Vocational adjustment class	2.3]

27 (b) The commissioner by rule shall define seven tiers of

1 intensity of service for use in determining funding under this
2 section. The commissioner must include one tier specifically
3 addressing students receiving special education services in
4 residential placement [~~A special instructional arrangement for~~
5 ~~students with disabilities residing in care and treatment~~
6 ~~facilities, other than state schools, whose parents or guardians do~~
7 ~~not reside in the district providing education services shall be~~
8 ~~established by commissioner rule. The funding weight for this~~
9 ~~arrangement shall be 4.0 for those students who receive their~~
10 ~~education service on a local school district campus. A special~~
11 ~~instructional arrangement for students with disabilities residing~~
12 ~~in state schools shall be established by commissioner rule with a~~
13 ~~funding weight of 2.8].~~

14 (c) The weights assigned to the seven tiers of intensity of
15 service defined under Subsection (b) are, from least to most
16 intense, 0.6, 0.85, 1, 1.45, 1.75, 2, and 2, or other weights
17 provided by appropriation. [~~For funding purposes, the number of~~
18 ~~contact hours credited per day for each student in the off home~~
19 ~~campus instructional arrangement may not exceed the contact hours~~
20 ~~credited per day for the multidistrict class instructional~~
21 ~~arrangement in the 1992-1993 school year.]~~

22 (d) [~~For funding purposes the contact hours credited per day~~
23 ~~for each student in the resource room, self-contained, mild and~~
24 ~~moderate, and self-contained, severe, instructional arrangements~~
25 ~~may not exceed the average of the statewide total contact hours~~
26 ~~credited per day for those three instructional arrangements in the~~
27 ~~1992-1993 school year.~~

1 ~~[(e) The commissioner by rule shall prescribe the~~
2 ~~qualifications an instructional arrangement must meet in order to~~
3 ~~be funded as a particular instructional arrangement under this~~
4 ~~section. In prescribing the qualifications that a mainstream~~
5 ~~instructional arrangement must meet, the commissioner shall~~
6 ~~establish requirements that students with disabilities and their~~
7 ~~teachers receive the direct, indirect, and support services that~~
8 ~~are necessary to enrich the regular classroom and enable student~~
9 ~~success.~~

10 ~~[(f) In this section, "full-time equivalent student" means~~
11 ~~30 hours of contact a week between a special education student and~~
12 ~~special education program personnel.~~

13 ~~[(g)]~~ The commissioner shall adopt rules and procedures
14 governing contracts for residential and day program placement of
15 ~~[special education]~~ students receiving special education services.

16 (e) ~~[The legislature shall provide by appropriation for the~~
17 ~~state's share of the costs of those placements.~~

18 ~~[(h)]~~ At least 55 percent of the funds allocated under this
19 section must be used in the special education program under
20 Subchapter A, Chapter 29.

21 (f) ~~[(i)]~~ The agency shall ensure ~~[encourage]~~ the placement
22 of students in special education programs, including students in
23 residential placement ~~[instructional arrangements]~~, in the least
24 restrictive environment appropriate for their educational needs.

25 (g) ~~[(j)]~~ A school district that provides an extended year
26 program required by federal law for special education students who
27 may regress is entitled to receive funds in an amount equal to 75

1 percent, or a lesser percentage determined by the commissioner, of
2 the basic allotment, or, if applicable, the sum of the basic
3 allotment and the allotment under Section 48.101 to which the
4 district is entitled for each [~~full-time equivalent~~] student in
5 average enrollment [~~daily attendance~~], multiplied by the amount
6 designated for the highest tier of intensity of service for which
7 the student qualifies [~~student's instructional arrangement~~] under
8 this section, for each day the program is provided divided by the
9 number of days in the minimum school year. The total amount of
10 state funding for extended year services under this section may not
11 exceed \$20 [~~\$10~~] million per year. A school district may use funds
12 received under this section only in providing an extended year
13 program.

14 (h) [~~(k)~~] From the total amount of funds appropriated for
15 special education under this section, the commissioner shall
16 withhold an amount specified in the General Appropriations Act, and
17 distribute that amount to school districts for programs under
18 Section 29.014. The program established under that section is
19 required only in school districts in which the program is financed
20 by funds distributed under this subsection and any other funds
21 available for the program. After deducting the amount withheld
22 under this subsection from the total amount appropriated for
23 special education, the commissioner shall reduce each district's
24 allotment proportionately and shall allocate funds to each district
25 accordingly.

26 (i) Not later than December 1 of each even-numbered year,
27 the commissioner shall submit to the Legislative Budget Board, for

1 purposes of the allotment under this section, proposed weights for
2 the tiers of intensity of service for the next state fiscal
3 biennium. The commissioner must include information regarding the
4 selection of the proposed weights. In developing the proposed
5 weights, the commissioner shall consult with school district
6 superintendents and chief financial officers, the continuing
7 advisory committee appointed under Section 29.006, and other
8 relevant stakeholders.

9 SECTION 9. Subchapter C, Chapter 48, Education Code, is
10 amended by adding Sections 48.1021, 48.1022, and 48.1023 to read as
11 follows:

12 Sec. 48.1021. SPECIAL EDUCATION SERVICE GROUP ALLOTMENT.

13 (a) For each six-week period in which a student in a special
14 education program under Subchapter A, Chapter 29, receives eligible
15 special education services, a school district is entitled to an
16 allotment in the amount assigned under Subsection (c) to the
17 service group for which the student is eligible.

18 (a-1) Notwithstanding Subsection (a), for the 2026-2027 and
19 2027-2028 school years, the amount of an allotment under this
20 section shall be determined in accordance with Section 48.1022.
21 This subsection expires September 1, 2028.

22 (b) The commissioner by rule shall establish four service
23 groups for use in determining funding under this section. In
24 establishing the groups, the commissioner must consider:

25 (1) the level of services, equipment, and technology
26 required to meet the needs of students receiving special education
27 services; and

1 (2) services that meet the needs of students receiving
2 special education services and were previously eligible for
3 reimbursement through the school health and related services
4 program.

5 (c) The amounts assigned to the four service groups
6 established under Subsection (b) are, from lowest to highest level
7 of service, \$100, \$350, \$650, and \$1,000, or other amounts provided
8 by appropriation.

9 (d) A school district is entitled to receive an allotment
10 under this section for each service group for which a student is
11 eligible.

12 (e) A school district is entitled to the full amount of an
13 allotment under this section for a student receiving eligible
14 special education services during any part of a six-week period.

15 (f) At least 55 percent of the funds allocated under this
16 section must be used for a special education program under
17 Subchapter A, Chapter 29.

18 (g) Not later than December 1 of each even-numbered year,
19 the commissioner shall submit to the Legislative Budget Board, for
20 purposes of the allotment under this section, proposed amounts of
21 funding for the service groups for the next state fiscal biennium.
22 The commissioner must include information regarding the selection
23 of the proposed amounts. In developing the proposed amounts, the
24 commissioner shall consult with school district superintendents
25 and chief financial officers, the continuing advisory committee
26 appointed under Section 29.006, and other relevant stakeholders.

27 Sec. 48.1022. SPECIAL EDUCATION TRANSITION FUNDING. (a)

1 For the 2026-2027 and 2027-2028 school years, the commissioner may
2 adjust weights or amounts provided under Section 48.102 or 48.1021
3 as necessary to ensure compliance with requirements regarding
4 maintenance of state financial support under 20 U.S.C. Section
5 1412(a)(18) and maintenance of local financial support under
6 applicable federal law.

7 (b) For the 2026-2027 and 2027-2028 school years, the
8 commissioner shall determine the formulas through which school
9 districts receive funding under Sections 48.102 and 48.1021. In
10 determining the formulas, the commissioner may combine the methods
11 of funding under those sections with the method of funding provided
12 by Section 48.102, as it existed on January 1, 2025.

13 (c) For the 2028-2029 school year, the commissioner may
14 adjust the weights or amounts set for purposes of Section 48.102 or
15 48.1021. Before making an adjustment under this subsection, the
16 commissioner shall:

17 (1) submit the proposed adjustment to the secretary of
18 state for publication in the Texas Register and must receive notice
19 of publication; and

20 (2) notify in writing and must receive approval from
21 the Legislative Budget Board.

22 (d) Notwithstanding any other provision of this section,
23 the sum of funding provided under Sections 48.102 and 48.1021 for
24 the 2026-2027 or for the 2027-2028 school year as adjusted under
25 this section may not exceed the sum of:

26 (1) funding that would have been provided under
27 Section 48.102, as it existed on January 1, 2025; and

1 (2) the amount set by the legislature in the General
2 Appropriations Act.

3 (e) Each school district and open-enrollment charter school
4 shall report to the agency information necessary to implement this
5 section.

6 (f) The agency shall provide technical assistance to school
7 districts and open-enrollment charter schools to ensure a
8 successful transition in funding formulas for special education.

9 (g) This section expires September 1, 2030.

10 Sec. 48.1023. SPECIAL EDUCATION TRANSITION HOLD HARMLESS
11 FUNDING. (a) For the 2026-2027, 2027-2028, 2028-2029, and
12 2029-2030 school years, each school district is entitled to receive
13 funding under Sections 48.102 and 48.1021 in a total amount at least
14 equal to the amount of funding the district was entitled to receive
15 under Section 48.102 for the 2025-2026 school year.

16 (b) The commissioner shall adjust a school district's
17 entitlement under Sections 48.102 and 48.1021 as necessary to
18 comply with this section.

19 (c) This section expires September 1, 2030.

20 SECTION 10. Sections 48.103(a) and (c), Education Code, are
21 amended to read as follows:

22 (a) Subject to Subsection (b), for each student that a
23 school district serves who has been identified as having dyslexia
24 or a related disorder, the district is entitled to an annual
25 allotment equal to the basic allotment multiplied by 0.5 [~~0.1~~] or a
26 greater amount provided by appropriation.

27 (c) A school district may receive funding for a student

1 under each provision of this section, ~~[and]~~ Section 48.102, and
2 Section 48.1021 for which ~~[if]~~ the student qualifies ~~[satisfies the~~
3 ~~requirements of both sections]~~.

4 SECTION 11. This Act takes effect September 1, 2026.