87S30102 MEW-D

By:  Huberty H.B. No. 131

A BILL TO BE ENTITLED

AN ACT

relating to providing accelerated instruction for certain public school students, a substitute teacher grant program, the calculation of average daily attendance of public school students, and an accelerated learning and sustainment allotment under the foundation school program.

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

SECTION 1.  Section 28.0211, Education Code, is amended by amending Subsection (a) and adding Subsection (b) to read as follows:

(a)  A school district shall ensure that curricular and instructional systems established by the district provide instruction to all students that:

(1)  is consistently aligned with grade-level essential knowledge and skills; and

(2)  strategically and timely addresses deficiencies in prerequisite essential knowledge and skills required for each grade level.

(b)  A school district shall establish an accelerated learning committee described by Subsection (b-1) [~~(c)~~] for each student who does not perform satisfactorily on:

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

(2)  the fourth, fifth, sixth, seventh, or eighth grade mathematics or reading assessment instrument under Section 39.023 in the school year following a school year in which the student did not perform satisfactorily in the same subject on the assessment instrument[~~; or~~

[~~(3)  the eighth grade mathematics or reading assessment instrument under Section 39.023~~].

SECTION 2.  Section 28.0211, Education Code, is amended by amending Subsections (a-1), (a-4), and (a-5) and adding Subsections (a-7), (a-8), and (a-9) to read as follows:

(a-1)  Each time a student fails to perform satisfactorily on an assessment instrument administered under Section 39.023(a) in the third, fourth, fifth, sixth, seventh, or eighth grade, the school district in which the student attends school shall:

(1)  provide to the student accelerated instruction in the applicable subject area during the subsequent summer or school year;

(2)  provide the student's parent or guardian the option under Subsection (a-5) to request that the student be assigned to a particular classroom teacher; and

(3)  either:

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

(B) [~~(2)~~]  provide the student supplemental instruction under Subsection (a-4).

(a-4)  If a district receives funding under Section 29.0881, 48.104, or 48.1102, the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (Div. M, Pub. L. No. 116-260), or the American Rescue Plan Act of 2021 (Pub. L. No. 117-2), then supplemental instruction provided by a school district under Subsection (a-1)(3)(B) [~~(a-1)(2)~~] must:

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

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

(3)  be provided:

(A)  to each student for no less than 15 [~~30 total~~] hours for that school year;

(B)  for an average of no less than 30 hours per student for all students receiving supplemental instruction that school year;

(C)  during the subsequent summer or school year; and

(D) [~~,~~]  unless the instruction is provided to a student fully during summer, [~~include instruction~~] no less than once per week during the school year;

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

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

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

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

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

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

(a-7)  A parent or guardian of a student who is provided supplemental instruction under Subsection (a-1)(3)(B) by the school district may decrease or remove a requirement of the supplemental instruction provided under Subsection (a-4) for the student by submitting a written request to the district. A district may not encourage or otherwise direct a parent or guardian to act under this subsection in a manner that allows the district to avoid providing the student with the benefit of supplemental instruction.

(a-8)  If a student in a homebound or other off-campus instructional arrangement is unable to participate in an accelerated instruction program due to the nature of the student's medical condition, the student's admission, review, and dismissal committee, if the student receives special education services under Subchapter A, Chapter 29, or the committee established for the student under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), if the student does not receive special education services under Subchapter A, Chapter 29, may determine that the student will be provided the accelerated instruction when the student returns to campus from the homebound or other off-campus setting. If the student's medical condition prevents the student from returning to campus during the current school year, the school district is not required to provide the accelerated instruction to the student during the subsequent school year.

(a-9)  For a student retained at a grade level in which the student's performance requires the school district to provide accelerated instruction under Subsection (a-1), the requirements for supplemental instruction described by Subsection (a-4) do not apply to any supplemental instruction provided to that student.

SECTION 3.  Section 28.0211(c), Education Code, is redesignated as Sections 28.0211(b-1) and (b-2), Education Code, and amended to read as follows:

(b-1) [~~(c)~~]  After a student fails to perform satisfactorily on an assessment instrument as described by [~~specified under~~] Subsection (b) [~~(a)~~], an accelerated learning committee shall be established. The accelerated learning committee shall be composed of at least:

(1)  the principal or the principal's designee from the campus at which the student most recently failed to perform satisfactorily and, if different, the campus at which the student will be provided accelerated instruction;

(2)  [~~,~~] the student's parent or guardian;

(3)  [~~, and~~] the teacher of each [~~the~~] subject of an assessment instrument for [~~on~~] which the student's performance required an accelerated learning committee to be established under Subsection (b);

(4)  the student's teacher of each subject described by Subdivision (3) for the following school year; and

(5)  a representative of the district authorized to ensure necessary supports and resources to implement an accelerated instruction program [~~student failed to perform satisfactorily~~].

(b-2)  The district shall notify the parent or guardian of the time and place for convening the accelerated learning committee and the purpose of the committee.

SECTION 4.  Sections 28.0211(f), (f-4), (i), and (j), Education Code, are redesignated as Sections 28.0211(b-3), (b-4), (b-5), and (b-6), Education Code, and amended to read as follows:

(b-3) [~~(f)~~]  An accelerated learning committee described by Subsection (b-1) [~~(c)~~] shall, not later than the start of the subsequent school year, develop an educational plan for the student that provides the necessary accelerated instruction to enable the student to perform at the appropriate grade level by the conclusion of the school year.

(b-4)  In developing the student's educational plan under Subsection (b-3), [~~(f-4) If a student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a) fails in the subsequent school year to perform satisfactorily on an assessment instrument in the same subject, the superintendent of the district, or the superintendent's designee, shall meet with~~] the student's accelerated learning committee shall [~~to~~]:

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

(2)  [~~determine, in order~~] to ensure the student performs satisfactorily on the assessment instrument at the next administration of the assessment instrument, consider [~~whether~~]:

(A)  increasing the number of hours of supplemental instruction provided to the student beyond the minimum number of hours required under Subsection (a-4)(3), including up to 45 hours or more during the school year [~~the educational plan developed for the student under Subsection (f) must be modified to provide the necessary accelerated instruction for that student~~]; [~~and~~]

(B)  lowering the student-to-instructor ratio for supplemental instruction below the maximum group size permitted under Subsection (a-4)(6), including providing the supplemental instruction to a student individually;

(C)  expanding the scheduled availability of supplemental instruction during the summer, during regular school hours, and before or after regular school hours;

(D)  assigning the student to a specific teacher for the subsequent school year who is better able to provide accelerated instruction; and

(E)  providing any additional resources [~~are~~] required for that student.

(b-5) [~~(i)~~]  The admission, review, and dismissal committee of a student who participates in a district's special education program under Subchapter A, Chapter 29, and for whom an accelerated learning committee is required to be established [~~who does not perform satisfactorily on an assessment instrument specified~~] under Subsection [~~(a) and administered under Section 39.023(a) or~~] (b) shall serve as the student's accelerated learning committee and must meet to determine the manner in which the student will participate in an accelerated instruction program under this section.

(b-6) [~~(j)~~]  A school district or open-enrollment charter school shall provide students required to attend accelerated programs under this section with transportation to those programs if the programs occur outside of regular school hours, unless the district or school or an agent of the district or school does not operate a district or school transportation system.

SECTION 5.  Sections 28.0211(f-1), (f-2), and (f-3), Education Code, are redesignated as Sections 28.0211(c), (c-1), and (c-2), Education Code, and amended to read as follows:

(c) [~~(f-1)~~]  The educational plan under Subsection (b-3) [~~(f)~~] must be documented in writing, and a copy must be provided to the student's parent or guardian.

(c-1) [~~(f-2)~~]  During the school year, the student shall be monitored to ensure that the student is progressing in accordance with the plan developed under Subsection (b-3) [~~(f)~~]. The district shall administer to the student the assessment instrument for the grade level in which the student is placed at the time the district regularly administers the assessment instruments for that school year.

(c-2) [~~(f-3)~~]  The board of trustees of each school district shall adopt a policy consistent with the grievance procedure adopted under Section 26.011 to allow a parent to contest the content or implementation of an educational plan developed under Subsection (b-3) [~~(f)~~].

SECTION 6.  Section 28.0211, Education Code, is amended by adding Subsection (c-3) to read as follows:

(c-3)  The accelerated instruction plan developed by a student's admission, review, and dismissal committee under Subsection (b-5) is not considered to be part of the student's individualized education program and is not subject to the requirements of Section 29.005 or 20 U.S.C. Section 1414(d) relating to the development of a student's individualized education program. A parent of a student with an individualized education program who intends to contest the content or implementation of the plan must follow the grievance policy adopted under Subsection (c-2).

SECTION 7.  Sections 28.0211(g), (n), and (n-1), Education Code, are redesignated as Sections 28.0211(d), (d-1), and (d-2), Education Code, and amended to read as follows:

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

(d-1) [~~(n)~~]  Except as provided by Subsections (a-5) and (d-2) [~~Subsection (n-1)~~], a student who fails to perform satisfactorily on an assessment instrument, as described by Subsection (b), [~~specified under Subsection (a)~~] and is promoted to the next grade level must be assigned in the subsequent school year in each subject in which the student failed to perform satisfactorily on an assessment instrument, as described by Subsection (b), [~~specified under Subsection (a)~~] to an appropriately certified teacher who meets all state and federal qualifications to teach that subject and grade.

(d-2) [~~(n-1)~~]  In a manner consistent with federal law and notwithstanding any other law, the commissioner may waive the requirement under Subsection (d-1) [~~(n)~~] regarding the assignment of a student to an appropriately certified classroom teacher on the request of a school district.

SECTION 8.  Section 28.0211(h), Education Code, is redesignated as Section 28.0211(e), Education Code, and amended to read as follows:

(e) [~~(h)~~]  In each instance under this section in which a school district is specifically required to provide notice or a written copy of a record to a parent or guardian of a student, the district shall make a good faith effort to ensure that such notice or written copy is provided either in person or by regular mail and that the notice or written copy is clear and easy to understand and is written in English or the parent or guardian's native language.

SECTION 9.  Section 28.0211, Education Code, is amended by adding Subsection (f) to read as follows:

(f)  The commissioner may provide a waiver of the requirements under this section for a school district for each school year in which at least 60 percent of the students who received accelerated instruction during the school year preceding the previous school year performed satisfactorily in the subsequent school year on the assessment instrument in each subject in which the student previously failed to perform satisfactorily. Not later than the beginning of each school year, the commissioner shall publish a list of school districts that qualify for a waiver under this subsection.

SECTION 10.  Sections 28.0211(k) and (l-1), Education Code, are redesignated as Sections 28.0211(g) and (g-1), Education Code, to read as follows:

(g) [~~(k)~~]  The commissioner may adopt rules as necessary to implement this section.

(g-1) [~~(l-1)~~]  The commissioner may adopt rules requiring a school district that receives federal funding under Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. Section 6301 et seq.) to use that funding to provide supplemental educational services under 20 U.S.C. Section 6316 in conjunction with the accelerated instruction provided under this section, provided that the rules may not conflict with federal law governing the use of that funding.

SECTION 11.  Section 28.0211, Education Code, is amended by adding Subsections (h), (h-1), and (h-2) to read as follows:

(h)  Notwithstanding Subsection (a-1), the requirement to provide accelerated instruction to a student under Subsection (a-1) applies only to a student who fails to perform satisfactorily on:

(1)  for the 2021-2022 and 2022-2023 school years, an assessment instrument under Section 39.023 in mathematics or reading; and

(2)  for the 2023-2024 school year, an assessment instrument under Section 39.023 in mathematics, reading, or social studies.

(h-1)  Notwithstanding Subsection (a-4)(6), by an affirmative vote of the board of trustees of a school district, supplemental instruction may be provided to a student individually or, without the authorization of the parent or guardian of each student in the group, in a group of not more than:

(1)  10 students for the 2021-2022 school year; and

(2)  seven students for the 2022-2023 school year.

(h-2)  This subsection and Subsections (h) and (h-1) expire September 1, 2024.

SECTION 12.  Subchapter Z, Chapter 29, Education Code, is amended by adding Section 29.935 to read as follows:

Sec. 29.935.  SUBSTITUTE TEACHER GRANT PROGRAM. (a) Using funds appropriated for the purpose, to address acute substitute teacher shortages, the agency shall provide grants to school districts and open-enrollment charter schools to offset the costs of increasing pay for substitute teachers in an amount not to exceed 50 percent of the rate of pay offered to substitute teachers by the district or school during the preceding school year.

(b)  The agency shall ensure that school districts and open-enrollment charter schools receiving grants under Subsection (a) provide matching funds in an amount equal to the amount of grant funds received.

SECTION 13.  Section 48.005, Education Code, is amended by adding Subsection (d-1) to read as follows:

(d-1)  Notwithstanding the limit on the number of instructional days for which an adjustment may be provided under Subsection (d), the commissioner may provide an adjustment to the average daily attendance of a school district for the 2021-2022 school year based on the continuing COVID-19 pandemic. This subsection expires September 1, 2023.

SECTION 14.  Effective September 1, 2022, Subchapter C, Chapter 48, Education Code, is amended by adding Section 48.1102 to read as follows:

Sec. 48.1102.  ACCELERATED LEARNING AND SUSTAINMENT ALLOTMENT. (a) For purposes of this section, a student is a:

(1)  successfully accelerated student if, in the preceding school year, the student:

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

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

(2)  sustained accelerated student if, in the preceding school year, the student:

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

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

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

(b)  For each successfully accelerated student in the preceding school year in excess of the minimum number of students determined for the district or school under Subsection (d), a school district or open-enrollment charter school is entitled to the following annual allotment:

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

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

(c)  For each sustained accelerated student in the preceding school year, a school district or open-enrollment charter school is entitled to the following annual allotment:

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

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

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

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

(2)  successfully accelerated students who are educationally disadvantaged.

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

(f)  The commissioner may modify the threshold percentages established under Subsection (d) once every five years if the commissioner determines that substantial improvement in the median performance of school districts and open-enrollment charter schools has occurred.

SECTION 15.  Sections 28.0211(f-5), (o), and (p), Education Code, are repealed.

SECTION 16.  Section 28.0211, Education Code, as amended by this Act, applies to accelerated instruction provided on or after the effective date of this Act, including accelerated instruction provided during the 2021-2022 school year.

SECTION 17.  Except as otherwise provided by this Act, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.