

By: Huberty

H.B. No. 131

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to providing accelerated instruction for certain public  
3 school students, a substitute teacher grant program, the  
4 calculation of average daily attendance of public school students,  
5 and an accelerated learning and sustainment allotment under the  
6 foundation school program.

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

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

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

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

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

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

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

24 (2) the fourth, fifth, sixth, seventh, or eighth grade

1 mathematics or reading assessment instrument under Section 39.023  
2 in the school year following a school year in which the student did  
3 not perform satisfactorily in the same subject on the assessment  
4 instrument~~[, or~~  
5  ~~(3) the eighth grade mathematics or reading~~  
6  ~~assessment instrument under Section 39.023].~~

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

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

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

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

20 (3) either:

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

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

27 (a-4) If a district receives funding under Section 29.0881,

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

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

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

12 (3) be provided:

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

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

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

19 and

20 (D) [~~7~~] unless the instruction is provided to a  
21 student fully during summer, [~~include instruction~~] no less than  
22 once per week during the school year;

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

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

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

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

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

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

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

24           (a-8) If a student in a homebound or other off-campus  
25 instructional arrangement is unable to participate in an  
26 accelerated instruction program due to the nature of the student's  
27 medical condition, the student's admission, review, and dismissal

1 committee, if the student receives special education services under  
2 Subchapter A, Chapter 29, or the committee established for the  
3 student under Section 504, Rehabilitation Act of 1973 (29 U.S.C.  
4 Section 794), if the student does not receive special education  
5 services under Subchapter A, Chapter 29, may determine that the  
6 student will be provided the accelerated instruction when the  
7 student returns to campus from the homebound or other off-campus  
8 setting. If the student's medical condition prevents the student  
9 from returning to campus during the current school year, the school  
10 district is not required to provide the accelerated instruction to  
11 the student during the subsequent school year.

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

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

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

25 (1) the principal or the principal's designee from the  
26 campus at which the student most recently failed to perform  
27 satisfactorily and, if different, the campus at which the student

1 will be provided accelerated instruction;

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

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

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

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

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

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

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

24 (b-4) In developing the student's educational plan under  
25 Subsection (b-3), [~~f-4) If a student who fails to perform~~  
26 ~~satisfactorily on an assessment instrument specified under~~  
27 ~~Subsection (a) fails in the subsequent school year to perform~~

1 ~~satisfactorily on an assessment instrument in the same subject, the~~  
2 ~~superintendent of the district, or the superintendent's designee,~~  
3 ~~shall meet with]~~ the student's accelerated learning committee shall  
4 ~~[to]:~~

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

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

10 (A) increasing the number of hours of  
11 supplemental instruction provided to the student beyond the minimum  
12 number of hours required under Subsection (a-4)(3), including up to  
13 45 hours or more during the school year ~~[the educational plan~~  
14 ~~developed for the student under Subsection (f) must be modified to~~  
15 ~~provide the necessary accelerated instruction for that student];~~  
16 ~~[and]~~

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

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

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

27 (E) providing any additional resources ~~[are]~~

1 required for that student.

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

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

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

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

24        (c-1) [~~(f-2)~~] During the school year, the student shall be  
25 monitored to ensure that the student is progressing in accordance  
26 with the plan developed under Subsection (b-3) [~~(f)~~]. The district  
27 shall administer to the student the assessment instrument for the



1 grade level in which the student is placed at the time the district  
2 regularly administers the assessment instruments for that school  
3 year.

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

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

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

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

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

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

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

16           SECTION 8. Section [28.0211\(h\)](#), Education Code, is  
17 redesignated as Section [28.0211\(e\)](#), Education Code, and amended to  
18 read as follows:

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

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

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

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

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

16       (g-1) [~~(l-1)~~] The commissioner may adopt rules requiring a  
17 school district that receives federal funding under Title I of the  
18 Elementary and Secondary Education Act of 1965 (20 U.S.C. Section  
19 6301 et seq.) to use that funding to provide supplemental  
20 educational services under 20 U.S.C. Section 6316 in conjunction  
21 with the accelerated instruction provided under this section,  
22 provided that the rules may not conflict with federal law governing  
23 the use of that funding.

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

26       (h) Notwithstanding Subsection (a-1), the requirement to  
27 provide accelerated instruction to a student under Subsection (a-1)

1 applies only to a student who fails to perform satisfactorily on:

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

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

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

13 (1) 10 students for the 2021-2022 school year; and

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

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

17 SECTION 12. Subchapter 7, Chapter 29, Education Code, is  
18 amended by adding Section 29.935 to read as follows:

19 Sec. 29.935. SUBSTITUTE TEACHER GRANT PROGRAM. (a) Using  
20 funds appropriated for the purpose, to address acute substitute  
21 teacher shortages, the agency shall provide grants to school  
22 districts and open-enrollment charter schools to offset the costs  
23 of increasing pay for substitute teachers in an amount not to exceed  
24 50 percent of the rate of pay offered to substitute teachers by the  
25 district or school during the preceding school year.

26 (b) The agency shall ensure that school districts and  
27 open-enrollment charter schools receiving grants under Subsection

1 (a) provide matching funds in an amount equal to the amount of grant  
2 funds received.

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

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

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

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

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

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

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

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

26 (A) performs at the level determined under  
27 Section 39.0241(a-1) or the equivalent to determine preparedness

1 for the student's next grade level or better on an assessment  
2 instrument administered under Section 39.023(a);

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

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

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

15 (1) \$500 for each student who is not educationally  
16 disadvantaged; and

17 (2) \$1,000 for each student who is educationally  
18 disadvantaged.

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

22 (1) \$250 for each student who is not educationally  
23 disadvantaged; and

24 (2) \$500 for each student who is educationally  
25 disadvantaged.

26 (d) The commissioner shall establish, using a percentile  
27 determined by the commissioner based on the median performance of

1 school districts and open-enrollment charter schools on  
2 assessments administered under Section 39.023(a) during the  
3 2017-2018 school year, a threshold percentage of:

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

6 (2) successfully accelerated students who are  
7 educationally disadvantaged.

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

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

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

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

25 SECTION 17. Except as otherwise provided by this Act, this  
26 Act takes effect immediately if it receives a vote of two-thirds of  
27 all the members elected to each house, as provided by Section 39,

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1 Article III, Texas Constitution. If this Act does not receive the  
2 vote necessary for immediate effect, this Act takes effect on the  
3 91st day after the last day of the legislative session.