

1-1 By: Paxton S.B. No. 1261
 1-2 (In the Senate - Filed February 27, 2023; March 9, 2023,
 1-3 read first time and referred to Committee on Education;
 1-4 April 24, 2023, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 12, Nays 0; April 24, 2023,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
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 COMMITTEE SUBSTITUTE FOR S.B. No. 1261 By: Campbell

1-23 A BILL TO BE ENTITLED
 1-24 AN ACT

1-25 relating to accelerated instruction provided to public school
 1-26 students who fail to achieve satisfactory performance on certain
 1-27 assessment instruments.

1-28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-29 SECTION 1. The heading to Section 28.0211, Education Code,
 1-30 is amended to read as follows:

1-31 Sec. 28.0211. [~~ACCELERATED LEARNING COMMITTEE,~~
 1-32 ACCELERATED INSTRUCTION; MODIFIED TEACHER ASSIGNMENT.

1-33 SECTION 2. Section 28.0211, Education Code, is amended by
 1-34 amending Subsections (a), (a-1), (a-4), (a-5), (f), (f-1), (f-2),
 1-35 (f-3), (g), (h), (i), (j), (k), and (n) and adding Subsections
 1-36 (a-7), (a-8), (a-9), (a-10), (a-11), (a-12), (a-13), (b), (b-1),
 1-37 (i-1), (l), (q), and (r) to read as follows:

1-38 (a) To ensure that each student achieves at least
 1-39 satisfactory performance on each assessment instrument
 1-40 administered under Section 39.023, a [A] school district shall
 1-41 ensure that the district's curricular and instructional systems
 1-42 provide instruction to all students that:

1-43 (1) is consistently aligned with the essential
 1-44 knowledge and skills for the applicable subject area and grade
 1-45 level; and

1-46 (2) strategically and timely addresses deficiencies
 1-47 in the prerequisite essential knowledge and skills for the
 1-48 applicable subject area and grade level [establish an accelerated
 1-49 learning committee described by Subsection (c) for each student who
 1-50 does not perform satisfactorily on:

1-51 [~~(1) the third grade mathematics or reading assessment~~
 1-52 ~~instrument under Section 39.023,~~

1-53 [~~(2) the fifth grade mathematics or reading assessment~~
 1-54 ~~instrument under Section 39.023, or~~

1-55 [~~(3) the eighth grade mathematics or reading~~
 1-56 ~~assessment instrument under Section 39.023].~~

1-57 (a-1) Each time a student fails to perform satisfactorily on
 1-58 an assessment instrument administered under Section 39.023(a) or
 1-59 (1) in the third, fourth, fifth, sixth, seventh, or eighth grade or
 1-60 an end-of-course assessment instrument administered under Section

2-1 39.023(c), other than an assessment instrument developed or adopted
 2-2 based on alternative academic achievement standards, the school
 2-3 district in which the student attends school shall provide to the
 2-4 student accelerated instruction in the applicable subject area
 2-5 during the subsequent summer or school year and, subject to
 2-6 Subsection (a-7), either:
 2-7 (1) allow the student to be assigned a classroom
 2-8 teacher who is certified as a master, exemplary, or recognized
 2-9 teacher under Section 21.3521 for the subsequent school year in the
 2-10 applicable subject area; or
 2-11 (2) provide the student supplemental instruction
 2-12 under Subsection (a-4).
 2-13 (a-4) If a district receives funding under Section 29.0881
 2-14 or 48.104, the Coronavirus Response and Relief Supplemental
 2-15 Appropriations Act, 2021 (Div. M, Pub. L. No. 116-260), or the
 2-16 American Rescue Plan Act of 2021 (Pub. L. No. 117-2), then
 2-17 supplemental instruction provided by a school district under
 2-18 Subsection (a-1)(2) must:
 2-19 (1) include targeted instruction in the essential
 2-20 knowledge and skills for the applicable grade levels and subject
 2-21 area;
 2-22 (2) be provided in addition to instruction normally
 2-23 provided to students in the grade level in which the student is
 2-24 enrolled;
 2-25 (3) be provided [~~for no less than 30 total hours~~]
 2-26 during the subsequent summer or school year:
 2-27 (A) to each student for no less than:
 2-28 (i) 15 hours; or
 2-29 (ii) 30 hours for a student whose
 2-30 performance on the applicable assessment instrument was
 2-31 significantly below satisfactory, as defined by commissioner rule;
 2-32 (B) for an average of no less than 30 hours per
 2-33 student for all students receiving supplemental instruction; and
 2-34 (C) [~~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 parent or guardian of a student to whom supplemental
 2-63 instruction will be provided under Subsection (a-1)(2) and who
 2-64 either was administered and failed to perform satisfactorily on an
 2-65 assessment instrument specified under Subsection (a-1) or was
 2-66 administered a beginning-of-year assessment instrument aligned
 2-67 with the essential knowledge and skills for the applicable subject
 2-68 area, including a student to whom Subsection (b) applies, may elect
 2-69 to reduce or remove a requirement for that instruction under

3-1 Subsection (a-4) by submitting a written request to the school
 3-2 district. A school district may not encourage or direct a parent or
 3-3 guardian to make an election under this subsection that would allow
 3-4 the district to:

3-5 (1) not provide supplemental instruction to the
 3-6 student; or

3-7 (2) provide supplemental instruction in a group larger
 3-8 than authorized under Subsection (a-4)(6).

3-9 (a-9) A school district is not required to provide
 3-10 accelerated instruction under Subsection (a-1) to a student who,
 3-11 instead of being administered an assessment instrument specified
 3-12 under Subsection (a-1), was administered a substitute assessment
 3-13 instrument in accordance with other law or agency rule authorizing
 3-14 the use of the substitute assessment instrument for purposes of
 3-15 satisfying the requirements concerning the applicable assessment
 3-16 instrument under Subsection (a-1).

3-17 (a-10) The agency shall approve one or more automated or
 3-18 other augmented methods for providing supplemental instruction
 3-19 under Subsection (a-1)(2) that may be used in lieu of some or all of
 3-20 the individual or group instruction required under Subsection
 3-21 (a-4)(6), as appropriate for the applicable grade level and subject
 3-22 area and a student's academic deficiency. The agency may approve a
 3-23 method under this subsection only if evidence indicates that the
 3-24 method is more effective than the individual or group instruction
 3-25 required under Subsection (a-4)(6). The commissioner shall adopt
 3-26 rules regarding when a method approved under this subsection may be
 3-27 used and the requirements under Subsection (a-4) for which the
 3-28 method may be substituted.

3-29 (a-11) For the purpose of providing tutoring services as
 3-30 part of the district's accelerated instruction program, a school
 3-31 district may use a service provider that is not on a list of service
 3-32 providers approved by the agency if the district can demonstrate to
 3-33 the commissioner that use of the service provider results in
 3-34 measurable improvement in student outcomes.

3-35 (a-12) A school district that is required to provide to a
 3-36 student accelerated instruction under Subsection (a-1) or
 3-37 supplemental instruction under Subsection (a-1)(2) is not required
 3-38 to provide additional instruction under either provision to the
 3-39 student based on the student's failure to perform satisfactorily on
 3-40 an assessment instrument administered as an optional assessment in
 3-41 the same subject area in which the district is required to provide
 3-42 the student the accelerated or supplemental instruction.

3-43 (a-13) A school district shall provide to the parent or
 3-44 guardian of a student who fails to perform satisfactorily on an
 3-45 assessment instrument specified under Subsection (a-1) notice that
 3-46 the student is not performing on grade level in the applicable
 3-47 subject area. Notwithstanding Subsection (h), the district must
 3-48 provide the notice at a parent-teacher conference or, if the
 3-49 district is unable to provide the notice at a parent-teacher
 3-50 conference, make a good faith effort to provide the notice in
 3-51 person. The agency shall develop and provide to school districts a
 3-52 model notice in plain language for use under this section.

3-53 (b) For each student who does not perform satisfactorily on
 3-54 an assessment instrument specified under Subsection (a-1) for two
 3-55 or more consecutive school years, the school district the student
 3-56 attends shall develop an accelerated education plan as described by
 3-57 Subsection (f).

3-58 (b-1) A school district shall make a good faith attempt to
 3-59 provide to the parent or guardian of a student to whom Subsection
 3-60 (b) applies a parent-teacher conference with the student's primary
 3-61 teacher at the start and end of the subsequent school year. At the
 3-62 conference, the district shall provide the student's parent or
 3-63 guardian with:

3-64 (1) the notice required under Subsection (a-13); and

3-65 (2) an explanation of:

3-66 (A) the accelerated instruction to which the
 3-67 student is entitled under this section; and

3-68 (B) the accelerated education plan that must be
 3-69 developed for the student under Subsection (f) and the manner in

4-1 which the parent or guardian may participate in developing the
 4-2 plan.

4-3 (f) Not [An accelerated learning committee described by
 4-4 Subsection (c) shall, not] later than the start of the subsequent
 4-5 school year, a school district shall develop an accelerated
 4-6 education [educational] plan for each [the] student to whom
 4-7 Subsection (b) applies that provides the necessary accelerated
 4-8 instruction to enable the student to perform at the appropriate
 4-9 grade level by the conclusion of the school year. The plan:

4-10 (1) must:

4-11 (A) identify the reason the student did not
 4-12 perform satisfactorily on the applicable assessment instrument
 4-13 specified under Subsection (a-1); and

4-14 (B) notwithstanding Subsections (a-4)(3)(A) and
 4-15 (B), require the student to be provided with no less than 30 hours,
 4-16 or a greater number of hours if appropriate, of supplemental
 4-17 instruction under Subsection (a-4) for each consecutive school year
 4-18 in which the student does not perform satisfactorily on the
 4-19 assessment instrument in the applicable subject area specified
 4-20 under Subsection (a-1); and

4-21 (2) may require that, as appropriate to ensure the
 4-22 student performs satisfactorily on the assessment instrument in the
 4-23 applicable subject area specified under Subsection (a-1) at the
 4-24 next administration of the assessment instrument:

4-25 (A) notwithstanding Subsection (a-4)(6), the
 4-26 student be provided supplemental instruction under Subsection
 4-27 (a-4) individually or in a group of fewer than four students;

4-28 (B) the district expand the times in which
 4-29 supplemental instruction under Subsection (a-4) is available to the
 4-30 student;

4-31 (C) the student be assigned for the school year
 4-32 to a specific teacher who is better able to provide accelerated
 4-33 instruction; and

4-34 (D) the district provide any necessary
 4-35 additional resources to the student.

4-36 (f-1) The accelerated education [educational] plan under
 4-37 Subsection (f) must be documented in writing, and a copy must be
 4-38 provided to the student's parent or guardian.

4-39 (f-2) During the school year, the student shall be monitored
 4-40 to ensure that the student is progressing in accordance with the
 4-41 accelerated education plan developed under Subsection (f). The
 4-42 district shall administer to the student the assessment instrument
 4-43 for the grade level in which the student is placed at the time the
 4-44 district regularly administers the assessment instruments for that
 4-45 school year.

4-46 (f-3) The board of trustees of each school district shall
 4-47 adopt a policy consistent with the grievance procedure adopted
 4-48 under Section 26.011 to allow a parent to contest the content or
 4-49 implementation of an accelerated education [educational] plan
 4-50 developed under Subsection (f).

4-51 (g) This section does not preclude the retention at a grade
 4-52 level, in accordance with state law or school district policy, of a
 4-53 student who performs satisfactorily on an assessment instrument
 4-54 specified under Subsection (a-1) [(a)].

4-55 (h) In each instance under this section in which a school
 4-56 district is specifically required to provide notice or a written
 4-57 copy to a parent or guardian of a student, the district shall make a
 4-58 good faith effort to ensure that such notice or copy is provided
 4-59 either in person or by regular mail and that the notice or copy is
 4-60 clear and easy to understand and is written in English or the parent
 4-61 or guardian's native language.

4-62 (i) The admission, review, and dismissal committee of a
 4-63 student who participates in a district's special education program
 4-64 under Subchapter A, Chapter 29, and who does not perform
 4-65 satisfactorily on an assessment instrument specified under
 4-66 Subsection (a-1) [(a) and administered under Section 39.023(a) or
 4-67 (b)] must [meet to] determine the manner in which the student will
 4-68 participate in an accelerated instruction program under this
 4-69 section. For a student for whom the committee determines

5-1 participation in the required tutoring model for supplemental
 5-2 instruction under Subsection (a-4) is not appropriate, the
 5-3 committee must review the student's individualized education plan
 5-4 and adjust the plan as appropriate to target the areas in which the
 5-5 student did not perform satisfactorily on the assessment
 5-6 instrument.

5-7 (i-1) If a student who attends school in a homebound or
 5-8 other off-campus instructional arrangement is unable to
 5-9 participate in an accelerated instruction program required under
 5-10 this section due to the student's medical condition, the school
 5-11 district may determine that the student be provided the accelerated
 5-12 instruction when the student attends school in an on-campus
 5-13 instructional setting. If the student's medical condition prevents
 5-14 the student from attending school in an on-campus instructional
 5-15 setting for the school year during which the accelerated
 5-16 instruction is required to be provided to the student, the district
 5-17 is not required to provide the accelerated instruction to the
 5-18 student for that school year.

5-19 (j) A school district or open-enrollment charter school
 5-20 shall provide students required to attend accelerated programs
 5-21 under this section with transportation to those programs if the
 5-22 programs occur outside of regular school hours, unless the district
 5-23 or school does not operate, or contract or agree with another entity
 5-24 to operate, a transportation system.

5-25 (k) The commissioner may adopt rules as necessary to
 5-26 implement this section, including rules for required reporting
 5-27 necessary to support student transfers.

5-28 (l) The agency shall monitor and evaluate the effectiveness
 5-29 of the accelerated instruction required under this section.

5-30 (n) Except as requested under Subsection (a-5) or provided
 5-31 by Subsection (n-1), a student for whom an accelerated education
 5-32 plan must be developed ~~[who fails to perform satisfactorily on an~~
 5-33 ~~assessment instrument specified]~~ under Subsection (b) ~~[(a) and is~~
 5-34 ~~promoted to the next grade level]~~ must be assigned, in each ~~[the~~
 5-35 ~~subsequent]~~ school year and ~~[in each]~~ subject covered by the
 5-36 accelerated education plan, ~~[in which the student failed to perform~~
 5-37 ~~satisfactorily on an assessment instrument specified under~~
 5-38 ~~Subsection (a)]~~ to an appropriately certified teacher who meets all
 5-39 state and federal qualifications to teach that subject and grade.

5-40 (q) The commissioner may waive the requirements under this
 5-41 section regarding accelerated instruction for a school district for
 5-42 each school year in which at least 60 percent of the students who
 5-43 received accelerated instruction during the school year
 5-44 immediately preceding the previous school year, including at least
 5-45 60 percent of students whose performance on the applicable
 5-46 assessment instrument was significantly below satisfactory, as
 5-47 defined by commissioner rule, performed satisfactorily in the
 5-48 previous school year on the assessment instrument in each subject
 5-49 in which the student previously failed to perform satisfactorily.
 5-50 For purposes of determining whether a school district qualifies for
 5-51 a waiver under this subsection, the commissioner shall:

5-52 (1) if a student received accelerated instruction in
 5-53 more than one subject during the applicable school year, consider
 5-54 the student's performance on the assessment instrument in each
 5-55 subject separately from the student's performance on the assessment
 5-56 instrument for each other subject; and

5-57 (2) by rule provide that a school district may not
 5-58 qualify for a waiver if students who are receiving special
 5-59 education services or are educationally disadvantaged are
 5-60 overrepresented among the students in the district who received
 5-61 accelerated instruction during the school year immediately
 5-62 preceding the previous school year and did not perform
 5-63 satisfactorily in the previous school year on the assessment
 5-64 instrument in each applicable subject.

5-65 (r) Not later than the beginning of each school year, the
 5-66 commissioner shall publish a list of school districts that qualify
 5-67 for a waiver under Subsection (q).

5-68 SECTION 3. Section 29.0881(e), Education Code, is amended
 5-69 to read as follows:

6-1 (e) A school district or open-enrollment charter school
6-2 that receives grant funds under this section may use the funds to:

6-3 (1) financially support or train or otherwise prepare
6-4 educators and other staff;

6-5 (2) pay for agreements with other entities to provide
6-6 prekindergarten services; or

6-7 (3) pay for accelerated instruction provided under
6-8 Section 28.0211 [~~or 28.0217~~].

6-9 SECTION 4. Section 39.025(b-1), Education Code, is amended
6-10 to read as follows:

6-11 (b-1) A school district shall provide each student who fails
6-12 to perform satisfactorily as determined by the commissioner under
6-13 Section 39.0241(a) on an end-of-course assessment instrument with
6-14 accelerated instruction under Section 28.0211 [~~28.0217~~] in the
6-15 subject assessed by the assessment instrument.

6-16 SECTION 5. The following provisions of the Education Code
6-17 are repealed:

6-18 (1) Sections 28.0211(c), (f-4), and (f-5); and

6-19 (2) Section 28.0217.

6-20 SECTION 6. The changes in law made by this Act to Section
6-21 28.0211, Education Code, apply beginning with assessment
6-22 instruments administered during the 2023 spring semester.

6-23 SECTION 7. The repeal by this Act of Section 28.0217,
6-24 Education Code, applies beginning with the 2023-2024 school year.

6-25 SECTION 8. (a) Notwithstanding any other section of this
6-26 Act, in a state fiscal year, the Texas Education Agency is not
6-27 required to implement a provision found in another section of this
6-28 Act that is drafted as a mandatory provision imposing a duty on the
6-29 agency to take an action unless money is specifically appropriated
6-30 to the agency for that fiscal year to carry out that duty. The Texas
6-31 Education Agency may implement the provision in that fiscal year to
6-32 the extent other funding is available to the agency to do so.

6-33 (b) If, as authorized by Subsection (a) of this section, the
6-34 Texas Education Agency does not implement the mandatory provision
6-35 in a state fiscal year, the agency, in its legislative budget
6-36 request for the next state fiscal biennium, shall certify that fact
6-37 to the Legislative Budget Board and include a written estimate of
6-38 the costs of implementing the provision in each year of that next
6-39 state fiscal biennium.

6-40 (c) This section and the suspension of the Texas Education
6-41 Agency's duty to implement a mandatory provision of this Act, as
6-42 provided by Subsection (a) of this section, expires and the duty to
6-43 implement the mandatory provision resumes on September 1, 2027.

6-44 SECTION 9. This Act takes effect immediately if it receives
6-45 a vote of two-thirds of all the members elected to each house, as
6-46 provided by Section 39, Article III, Texas Constitution. If this
6-47 Act does not receive the vote necessary for immediate effect, this
6-48 Act takes effect September 1, 2023.

6-49 * * * * *