

- SUBJECT:** Establishing supplemental education services and materials program
- COMMITTEE:** Public Education — favorable, with amendment
- VOTE:** 10 ayes — Dutton, Allison, K. Bell, Bernal, Buckley, Huberty, K. King, Meza, Talarico, VanDeaver
- 1 nay — Allen
- 2 absent — Lozano, M. González
- SENATE VOTE:** On final passage, May 3 — 21-9 (Blanco, Eckhardt, Gutierrez, Johnson, Menéndez, Powell, Seliger, Whitmire, Zaffirini)
- WITNESSES:** For — Mandy Drogin, American Federation for Children; (*Registered, but did not testify*: Suzi Kennon, Texas PTA; Starlee Coleman, Texas Public Charter Schools Association; Knox Kimberly, Upbring; Thomas Parkinson)
- Against — Monty Exter, Association of Texas Professional Educators; Steven Aleman, Disability Rights Texas; Kristin McGuire, Texas Council of Administrators of Special Education; Linda Litzinger, Texas Parent to Parent; (*Registered, but did not testify*: Lynn Boswell, Austin ISD; Jennifer Toon, Coalition of Texans with Disabilities; Lisa Flores, Easterseals Central Texas; Susana Carranza, League of Women Voters of Texas; Rene Lara, Texas AFL-CIO; Dena Donaldson, Texas American Federation of Teachers; Pamela McPeters, Texas Classroom Teachers Association; Shannon Noble, Texas Counseling Association; Mark Terry, Texas Elementary Principals and Supervisors Association; Carisa Lopez, Texas Freedom Network; Joshua Houston, Texas Impact; Christy Rome, Texas School Coalition; Carrie Griffith, Texas State Teachers Association; Ginger Mayeaux, The Arc of Texas)
- On — Charles Luke, Coalition for Public Schools; David Anderson, Raise Your Hand Texas; Nancy Waterhouse, San Benito CISD Special Services; Justin Porter, Texas Education Agency; (*Registered, but did not testify*:

Colby Nichols, Texas Association of Community Schools)

BACKGROUND: During the 2020 school year, some have estimated that students experienced about three months of learning loss due to school closures as a result of the COVID-19 pandemic, and some have suggested the learning losses for students with special education needs could be more severe. In January 2021, the supplemental special education services program was established to address this issue by providing qualifying public school students with \$1,500 credits to obtain services, curriculum, or other supplies to support their education during the pandemic. Some have called for making the program permanent.

DIGEST: SB 1716 would require the Texas Education Agency (TEA) to establish and administer a supplemental special education services and instructional materials program for students who met the eligibility requirements for participation in the program. TEA would have to provide each student approved a credit of up to \$1,500 to purchase supplemental special education services and instructional materials.

“Supplemental special education services” would be defined as an additive service that provided an educational benefit to a student receiving special education services, including:

- occupational therapy, physical therapy, and speech therapy; and
- private tutoring and other supplemental private instruction or programs.

“Supplemental special education instructional materials” would be defined as textbooks, computer hardware or software, other technological devices, and other materials suitable for addressing an educational need of a student receiving special education services.

Administration. The bill would require TEA to maintain a system of online accounts to provide access to the credit to an eligible student’s parent or guardian. The commissioner would have to set aside an amount not to exceed \$30 million from the total amount of funds appropriated for

each state fiscal year to fund the program. For each state fiscal year, the total amount provided for student credits could not exceed the amount set aside.

Credit application and eligibility. The bill would require TEA to establish an application process for an eligible student's parent to apply for a credit held in an online account and assigned to the student.

TEA would have to establish eligibility criteria for the approval of an application. The criteria would have to require that the student be enrolled in the current school year at a school district or open-enrollment charter school and in a district's or school's special education program. The eligibility criteria also would have to prioritize students who were eligible for a compensatory education allotment, including students who:

- resided in a residential placement facility in a district in which the student's parent or guardian did not reside;
- were educationally or economically disadvantaged; or
- were pregnant.

The bill would require TEA to approve and assign an account to each student who met the program eligibility criteria, subject to available funding. The account only could be used by the student's parent or guardian to purchase supplemental special education services or instructional materials for the student.

Account use restriction. Money in a student's account only could be used for supplemental services and instructional materials. Supplemental special education services would have to be provided by an agency-approved provider.

If TEA had approved vendors for a category of instructional materials, those materials would have to be purchased from an agency-approved vendor. If TEA did not establish criteria for agency approval for a category of instructional materials, money in the student's account could be used to purchase the instructional materials from any vendor.

Criteria and application for agency-approved providers and vendors.

The bill would require TEA to establish criteria necessary for agency approval for each category of provider of a professional service that was a supplemental special education service, as defined by the agency.

The criteria established would have to require a provider of a category of professional service to be appropriately licensed or accredited in this state to provide that service, including providers of physical therapy, occupational therapy, and speech therapy.

TEA would have to provide a procedure for providers of supplemental special education services to apply to become an agency-approved provider.

TEA could establish criteria for agency approval of vendors for each category of supplemental special education instructional materials. If the agency established those criteria, TEA also would have to provide a procedure for those vendors to apply to become an agency-approved vendor.

Rules. By December 1, 2021, the education commissioner would have to adopt all rules necessary for the establishment and administration of the supplemental special education services and instructional materials program.

TEA would be required to implement the bill's provisions only if the Legislature appropriated money specifically for that purpose. If the Legislature did not appropriate money for that purpose, TEA could, but would not be required to, implement the bill's provisions using other appropriations available.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

NOTES:

A committee amendment would require the admission, review, and dismissal committee of a student approved for program participation to provide to the student's parent or guardian at a committee meeting for the student a list of supplemental special education services provided by agency-approved providers for which an account maintained for the student could be used. Supplemental special education services not included on the list could still be eligible if the services otherwise met the requirements in the bill. The amendment would have the bill's provisions expire September 1, 2024.

Another committee amendment would replace the term "credit" with "grant" in reference to the program.

A third committee amendment would require TEA to designate one or more regional education service centers to administer the program.

Fiscal note. According to the Legislative Budget Board, the bill would have a negative impact of about \$60.6 million to general revenue through fiscal 2023.

SB 1 by Nelson (Bonnen), the general appropriations act for fiscal 2022-23, includes in Article III a budget rider for \$60 million in general revenue contingent on enactment of SB 1716.