

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1533 Session of 2021

INTRODUCED BY TOPPER, R. BROWN, GILLEN, GLEIM, KAUFFMAN, MULLINS, PENNYCUICK, ROTHMAN, RYAN, SAYLOR, SCHROEDER, STEPHENS, STRUZZI, THOMAS, WARNER AND WHITE, JUNE 3, 2021

AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 22, 2021

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," in terms and courses of study,
6 providing for program of accelerated learning following
7 COVID-19 pandemic.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
11 as the Public School Code of 1949, is amended by adding a
12 section to read:

13 Section 1507. Program of Accelerated Learning Following
14 COVID-19 Pandemic.--(a) Each school entity shall offer to all
15 students enrolled in the school entity a program of accelerated
16 learning, beginning on June 15, 2021, IN THE 2021-2022 SCHOOL <--
17 YEAR, AND PURSUANT TO A SCHOOL ENTITY'S APPLICATION TO THE
18 DEPARTMENT FOR ELEMENTARY AND SECONDARY SCHOOL EMERGENCY RELIEF
19 FUNDING UNDER THE AMERICAN RESCUE PLAN ACT OF 2021 (PUBLIC LAW

1 117-2, 135 STAT. 4) and continuing through ~~September 1, 2023,~~ AT <--  
2 MINIMUM, SEPTEMBER 30, 2023. The program of accelerated learning  
3 established under this subsection AND APPROVED BY THE DEPARTMENT <--  
4 AS PART OF THE SCHOOL ENTITY'S APPLICATION FOR ELEMENTARY AND  
5 SECONDARY SCHOOL EMERGENCY RELIEF FUNDING UNDER SECTION 2001(D)  
6 OF THE AMERICAN RESCUE PLAN ACT OF 2021 shall, at a minimum, be  
7 funded by ~~twenty percent of the Federal funding under~~ CONSISTENT <--  
8 WITH ~~section 2001(e)(1)~~ 2001 of the American Rescue Plan Act of <--  
9 2021 ~~(Public Law No. 117-2, 135 Stat. 4)~~ for learning loss. THE <--  
10 PROGRAM SHALL BE ESTABLISHED ACCORDING TO THE GUIDELINES AND  
11 RESOURCES PROVIDED BY THE DEPARTMENT FOR ACCELERATED LEARNING.  
12 Other Federal or State money may be used for a program of  
13 accelerated learning in school entities and nothing in this  
14 subsection shall be construed to limit funding for the program  
15 of accelerated learning. The following shall apply:  
16 (1) Students shall be offered the option of an in-person  
17 program of accelerated learning.  
18 (2) The program of accelerated learning shall be offered to  
19 students at no cost.  
20 (3) School entities ~~must~~ SHALL develop a plan for the <--  
21 program of accelerated learning ~~in consultation with~~ CONSISTENT <--  
22 WITH THE SCHOOL ENTITY'S APPLICATION TO THE DEPARTMENT FOR  
23 FUNDING UNDER SECTION 2001(D) OF THE AMERICAN RESCUE PLAN ACT OF  
24 2021. A PLAN SHALL REFLECT CONSULTATION WITH STUDENTS, FAMILIES,  
25 SCHOOL AND DISTRICT ADMINISTRATORS, INCLUDING SPECIAL EDUCATION  
26 ADMINISTRATORS, TEACHERS, PRINCIPALS, SCHOOL LEADERS, OTHER  
27 EDUCATORS, SCHOOL STAFF, ~~existing employe~~ organizations and  
28 other appropriate entities, as needed, for the services to be  
29 provided, including local agencies, county health agencies,  
30 mental health agencies and community-based organizations. The

1 plan for the program of accelerated learning shall be tailored  
2 to the social, emotional, behavioral and academic needs of  
3 students enrolled in the school entity, utilizing, as <--  
4 appropriate, formative, diagnostic and benchmark assessments  
5 selected by the school entity. The plan shall be posted on the  
6 school entity's publicly accessible Internet website.

7 (4) The program of accelerated learning shall be staffed as <--  
8 follows: IF THE PROGRAM OF ACCELERATED LEARNING REQUIRES <--  
9 DEDICATED STAFFING, ASSIGNMENTS SHALL BE MADE AS FOLLOWS:

10 (i) Current employes of the school entity shall be given  
11 priority to fill assignments necessitated by the offering of the  
12 program of accelerated learning SUBJECT TO QUALIFICATIONS FOR <--  
13 THE ASSIGNMENTS. Current employes of the school entity who  
14 accept or are transferred to an assignment in the program of  
15 accelerated learning shall have the right to return to the same  
16 position in the same school or schools upon cessation of the  
17 services provided by that assignment.

18 (ii) School entities may also hire any of the following <--  
19 additional school employes to fill assignments necessitated by  
20 the offering of the program of accelerated learning not  
21 otherwise filled by current employes:

22 (A) Certified professional employes, temporary professional  
23 employes or substitute employes as defined in section 1101,  
24 including, but not limited to, certified school nurses,  
25 certified school psychologists and other certified school staff  
26 who provide students with mental health support as part of the  
27 program of accelerated learning.

28 (B) Noncertified licensed professionals, including, but not  
29 limited to, behavior analysts, occupational therapists and  
30 social workers.

1 (C) Education support professionals who provide services to  
2 school entities and students as part of the program of  
3 accelerated learning.

4 (III) SCHOOL ENTITIES MAY CONTRACT WITH AN INTERMEDIATE UNIT <--  
5 TO USE EMPLOYEES OF THE INTERMEDIATE UNIT TO PROVIDE SERVICES  
6 NECESSITATED BY A SCHOOL ENTITY'S PROGRAM OF ACCELERATED  
7 LEARNING.

8 (5) Upon ~~exhaustion~~ EXPIRATION of Federal ARP ESSER funding <--  
9 ~~under the American Rescue Plan Act of 2021,~~ DEDICATED TO <--  
10 LEARNING LOSS, a school entity may suspend individuals hired  
11 under paragraph ~~(4)~~ (4)(II) based on an alteration or <--  
12 curtailment of the program under section 1124. Notwithstanding  
13 section 1125.1, suspended employes shall not have realignment or  
14 recall rights. School entities may determine to continue a  
15 program of accelerated learning beyond the exhaustion of Federal  
16 funding, in which case employes assigned to the program of  
17 accelerated learning shall have all rights afforded under this  
18 act, including the rights of professional employes related to  
19 suspension.

20 ~~(6) If, after a good faith effort, a school entity is unable <--~~  
21 ~~to fill accelerated learning assignments arising between two~~  
22 ~~school years under paragraph (4)(i) or (ii), the school entity~~  
23 ~~may contract with outside providers to provide tutoring services~~  
24 ~~or to address the academic, social, behavioral and emotional~~  
25 ~~needs of students. A school entity may require that an outside~~  
26 ~~provider utilize appropriately certified staff. All contracts~~  
27 ~~with outside providers shall expire upon the exhaustion of~~  
28 ~~Federal funding under the American Rescue Plan Act of 2021.~~

29 ~~(b) Each school entity that receives money under subsection~~  
30 ~~(a) shall report to the department contracts the school entity~~

1 ~~enters with an outside provider that will be paid through money~~  
2 ~~received by the school entity under subsection (a). The~~  
3 ~~following shall apply:~~

4 ~~(1) The report shall contain, at a minimum, the following~~  
5 ~~with respect to each contract:~~

6 ~~(i) The name of the outside provider.~~

7 ~~(ii) The term of the contract, including beginning and~~  
8 ~~ending dates.~~

9 ~~(iii) A description of the services to be provided by the~~  
10 ~~provider under the contract, including performance measures by~~  
11 ~~which the school entity will determine whether the outside~~  
12 ~~provider has satisfactorily performed under the contract.~~

13 ~~(iv) A description of the selection process used in~~  
14 ~~selecting the outside provider.~~

15 ~~(v) The amounts paid to the outside provider under the~~  
16 ~~contract, including an itemized description of the funding~~  
17 ~~allocated to each service being provided under the contract and~~  
18 ~~the dates of payment.~~

19 ~~(2) The school entity shall submit its report to the~~  
20 ~~department within ten (10) business days of entering into the~~  
21 ~~contract. The report shall be submitted electronically using a~~  
22 ~~form and reporting instructions developed by the department and~~  
23 ~~shall be posted on the school entity's publicly accessible~~  
24 ~~Internet website.~~

25 ~~(3) The department shall publish the form and reporting~~  
26 ~~instructions on its publicly accessible Internet website within~~  
27 ~~thirty (30) days of the effective date of this paragraph.~~

28 ~~(4) The department shall compile the information required to~~  
29 ~~be reported under paragraph (1) and publish the information on~~  
30 ~~the department's publicly accessible Internet website on a~~

~~1 searchable database. The department shall update the information  
2 in the database at least monthly. The department shall submit  
3 the compiled and updated information to the Education Committee  
4 of the Senate and the Education Committee of the House of  
5 Representatives.~~

~~6 (5) Each school entity shall provide the department, upon  
7 request, additional reports and information concerning the  
8 contract and the provider as the department may require.~~

~~9 (6) Within sixty (60) days of the end of the contract term,  
10 the school entity shall supplement the report required under  
11 this subsection with an assessment of the benefits derived by  
12 the school entity under the contract.~~

~~13 (B) (1) ALL CONTRACTS AND EXPENDITURES OF FUNDS SHALL  
14 COMPLY WITH THE REQUIREMENTS OF FEDERAL AND STATE LAW,  
15 INCLUDING, BUT NOT LIMITED TO, UNIFORM GRANTS GUIDANCE AT 2  
16 C.F.R. PT. 200 (RELATING TO UNIFORM ADMINISTRATIVE REQUIREMENTS,  
17 COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS).~~

<--

~~18 (2) SCHOOL ENTITY REPORTING TO THE DEPARTMENT ON THE PROGRAM  
19 OF ACCELERATED LEARNING SHALL BE PURSUANT TO FEDERAL LAW, ARP  
20 ESSER GUIDANCE AND DATA ELEMENTS ENCOMPASSED IN A SCHOOL  
21 ENTITY'S APPLICATION TO THE DEPARTMENT FOR ARP ESSER FUNDING.~~

~~22 (3) THE DEPARTMENT SHALL COMPILE THE INFORMATION REQUIRED TO  
23 BE REPORTED UNDER PARAGRAPH (2) AND PUBLISH THE INFORMATION ON  
24 THE DEPARTMENT'S PUBLICLY ACCESSIBLE INTERNET WEBSITE ON A  
25 SEARCHABLE FORMAT. THE DEPARTMENT SHALL UPDATE THE INFORMATION  
26 IN THE DATABASE AT LEAST QUARTERLY. THE DEPARTMENT SHALL SUBMIT  
27 THE COMPILED AND UPDATED INFORMATION TO THE EDUCATION COMMITTEE  
28 OF THE SENATE AND THE EDUCATION COMMITTEE OF THE HOUSE OF  
29 REPRESENTATIVES.~~

~~30 (c) Nothing in this section shall supersede or preempt any~~

1 provision of a collective bargaining agreement between a school  
2 entity and an employe organization.~~All, OR ANY rights of an~~ <--  
3 employe organization under the provisions of the act of July 23,  
4 1970 (P.L.563, No.195), known as the Public Employe Relations  
5 Act,~~including, but not limited to, the right of an employe~~ <--  
6 organization to exclusive representation of employes hired to  
7 provide accelerated learning. Employe organizations shall not  
8 lose the exclusive right to bargaining unit work by virtue of a  
9 school entity's operation of a program of accelerated learning  
10 under this section.

11 (d) As used in this section, the following words and phrases  
12 shall have the meanings given to them in this subsection unless  
13 the context clearly indicates otherwise:

14 "ARP ESSER." SECTION 2001 OF THE AMERICAN RESCUE PLAN ACT OF <--  
15 2021 (PUBLIC LAW 117-2, 135 STAT. 4).

16 "COVID-19 pandemic." The global pandemic declared by the  
17 World Health Organization on March 11, 2020.

18 "Department." The Department of Education of the  
19 Commonwealth.

20 "Employe organization." A public school employe organization  
21 or an agency or employe representation committee or plan in  
22 which membership is limited to public school employes, and which  
23 exists for the purpose, in whole or in part, of dealing with  
24 public school employers concerning grievances, public school  
25 employe-public school employer disputes, wages, rates of pay,  
26 hours of employment or conditions of work. The term shall not  
27 include an organization which practices discrimination in  
28 membership because of race, color, creed, national origin or  
29 political affiliation.

30 "Program of accelerated learning." A student centered <--

~~1 program designed by a school entity based in part on data driven~~  
~~2 assessments, including formative, diagnostic and benchmark~~  
~~3 assessments, as well as direct input from educators, that is~~  
~~4 evidence based and may include evidence based supports~~  
~~5 recognized by the department within its Consolidated State Plan~~  
~~6 required under section 1111 of the Elementary and Secondary~~  
~~7 Education Act of 1965 (Public Law 89 110, 20 U.S.C. § 6311 et~~  
~~8 seq.), for the social, emotional, behavioral and academic needs~~  
~~9 of students and that addresses the disproportionate impact of~~  
~~10 the COVID-19 pandemic on the student subgroups described in~~  
~~11 section 1111(b)(2)(B)(xi) of the Elementary and Secondary~~  
~~12 Education Act of 1965 or in section 1111(c)(2) of the Every~~  
~~13 Student Succeeds Act, (Public Law 114 95, 129 Stat. 1802),~~  
~~14 students experiencing homelessness and children and youth in~~  
~~15 foster care. ACTIVITIES THAT ADDRESS LEARNING LOSS THROUGH THE <--~~  
~~16 IMPLEMENTATION OF EVIDENCE-BASED INTERVENTIONS, INCLUDING SUMMER~~  
~~17 LEARNING OR SUMMER ENRICHMENT, EXTENDED DAY, COMPREHENSIVE~~  
~~18 AFTERSCHOOL PROGRAMS, EXTENDED SCHOOL YEAR PROGRAMS OR OTHER~~  
~~19 EVIDENCE-BASED INTERVENTIONS, AND ENSURE THAT THE INTERVENTIONS~~  
~~20 RESPOND TO STUDENTS' ACADEMIC, SOCIAL AND EMOTIONAL NEEDS AND~~  
~~21 ADDRESS THE DISPROPORTIONATE IMPACT OF THE CORONAVIRUS ON THE~~  
~~22 STUDENT SUBGROUPS DESCRIBED IN SECTION 1111(B)(2)(B)(XI) OF THE~~  
~~23 ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (PUBLIC LAW 89-~~  
~~24 10, 20 U.S.C. § 6301 ET SEQ.), STUDENTS EXPERIENCING~~  
~~25 HOMELESSNESS AND YOUTH IN FOSTER CARE.~~  
  
~~26 "School entity." A school district, area career and <--~~  
~~27 technical school, intermediate unit, charter school, regional~~  
~~28 charter school or cyber charter school. A LOCAL EDUCATIONAL <--~~  
~~29 AGENCY RECEIVING A SUBGRANT UNDER SECTION 2001(D) OF THE~~  
~~30 AMERICAN RESCUE PLAN ACT OF 2021.~~

1 ~~"School year." The period of time elapsing between the~~ <--  
2 ~~opening of the public schools in the fall of one calendar year~~  
3 ~~and the closing of the public schools in the spring of the~~  
4 ~~following calendar year.~~

5 Section 2. This act shall take effect immediately.