

1-1 By: Paxton, Campbell, Menéndez S.B. No. 418
 1-2 (In the Senate - Filed January 12, 2023; February 15, 2023,
 1-3 read first time and referred to Committee on Education;
 1-4 May 1, 2023, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 12, Nays 0; May 1, 2023,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
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. 418 By: Springer

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

1-25 relating to the transfer of students between public schools.
 1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-27 SECTION 1. Section 25.001(h), Education Code, is amended to
 1-28 read as follows:
 1-29 (h) In addition to the penalty provided by Section 37.10,
 1-30 Penal Code, a person who knowingly falsifies information on a form
 1-31 required for enrollment of a student in a school district is liable
 1-32 to the district if the student is not eligible for enrollment in the
 1-33 district but is enrolled on the basis of the false information. The
 1-34 person is liable, for the period during which the ineligible
 1-35 student is enrolled, for ~~the greater of:~~
 1-36 ~~[(1) the maximum tuition fee the district may charge~~
 1-37 ~~under Section 25.038; or~~
 1-38 ~~[(2)] the amount the district has budgeted for each~~
 1-39 student as maintenance and operating expenses.
 1-40 SECTION 2. Section 25.035, Education Code, is amended to
 1-41 read as follows:
 1-42 Sec. 25.035. TRANSFERS BETWEEN DISTRICTS OR COUNTIES. The
 1-43 boards of trustees of two or more ~~[adjoining]~~ school districts or
 1-44 the boards of county school trustees of two or more ~~[adjoining]~~
 1-45 counties may, ~~[by agreement and]~~ in accordance with Sections
 1-46 25.032, 25.033, and 25.034, arrange for the transfer and assignment
 1-47 of any student from the jurisdiction of one board to that of
 1-48 another. ~~[In the case of the transfer and assignment of a student~~
 1-49 ~~under this section, the participating governing boards shall also~~
 1-50 ~~agree to the transfer of school funds or other payments~~
 1-51 ~~proportionate to the transfer of attendance.]~~
 1-52 SECTION 3. Section 25.036, Education Code, is amended to
 1-53 read as follows:
 1-54 Sec. 25.036. TRANSFER OF STUDENT. (a) Any child, other
 1-55 than a high school graduate, who is younger than 21 years of age and
 1-56 eligible for enrollment on September 1 of any school year may apply
 1-57 to transfer [annually] from the child's school district [of
 1-58 residence] to any public school [another district] in this state
 1-59 that offers the appropriate grade level and has capacity, as
 1-60 determined under Section 25.046 [if both the receiving district and

2-1 ~~the applicant parent or guardian or person having lawful control of~~
 2-2 ~~the child jointly approve and timely agree in writing to the~~
 2-3 ~~transfer].~~

2-4 (b) Before the beginning of each school year, a school
 2-5 district shall:

2-6 (1) require a transfer applicant under Subsection (a)
 2-7 to complete and submit the district's transfer application form by
 2-8 a reasonable deadline established by the district; and

2-9 (2) subject to Subsection (g), admit each eligible
 2-10 transfer applicant until enrollment at the campus reaches capacity,
 2-11 as determined under Section 25.046.

2-12 (c) If a school district receives more eligible transfer
 2-13 applications for a district campus or a specific grade level at a
 2-14 district campus than the district has capacity for at that campus or
 2-15 in that grade level, as determined under Section 25.046, the
 2-16 district shall fill the available positions by lottery. A school
 2-17 district shall offer to a student who the district does not enroll
 2-18 due to lack of capacity an available position, if any, in the
 2-19 appropriate grade level at another district campus.

2-20 (d) A school district that must fill positions by lottery
 2-21 under Subsection (c) shall, in developing the lottery system,
 2-22 ensure priority is given to applicants in the following order:

2-23 (1) students residing in the receiving district;

2-24 (2) students enrolled as transfer students at another
 2-25 campus in the receiving district;

2-26 (3) students receiving special education services
 2-27 under Subchapter A, Chapter 29;

2-28 (4) students who are dependents of military personnel;

2-29 (5) students who are dependents of law enforcement
 2-30 personnel;

2-31 (6) students in foster care;

2-32 (7) students who are the subject of court-ordered
 2-33 modification of an order establishing conservatorship or
 2-34 possession and access;

2-35 (8) students who are siblings of a student who is
 2-36 enrolled in the receiving district at the time the student seeks to
 2-37 transfer; and

2-38 (9) students who are dependents of an employee of the
 2-39 receiving district.

2-40 (e) A school district that receives more eligible transfer
 2-41 applications for a district campus or a specific grade level at a
 2-42 district campus than the district may enroll at the capacity
 2-43 determined under Section 25.046 for that campus or grade level
 2-44 shall establish and maintain a waitlist for transfer applicants who
 2-45 are not admitted.

2-46 (f) If a position at a school district campus with a
 2-47 waitlist under Subsection (e) becomes available after the start of
 2-48 the school year, the district shall first admit transfer applicants
 2-49 according to that waitlist and then admit any additional transfer
 2-50 applicants in the order in which those additional transfer
 2-51 applications are received.

2-52 (g) A school district may deny approval of a transfer under
 2-53 this section only if:

2-54 (1) the district or a school in the district to which a
 2-55 student seeks to transfer is at full student capacity or has more
 2-56 requests for transfers than available positions;

2-57 (2) at the time a student seeks to transfer:

2-58 (A) the student is:

2-59 (i) suspended or expelled by the district
 2-60 in which the student is enrolled; or

2-61 (ii) placed in a disciplinary alternative
 2-62 education program or a juvenile justice alternative education
 2-63 program; or

2-64 (B) disciplinary proceedings are pending against
 2-65 the student in the district in which the student is enrolled for
 2-66 conduct for which the student:

2-67 (i) may be placed in out-of-school
 2-68 suspension in accordance with the district's student code of
 2-69 conduct;

3-1 (ii) is required or permitted to be removed
3-2 from class and placed in a disciplinary alternative education
3-3 program under Section 37.006; or
3-4 (iii) is required or permitted to be
3-5 expelled under Section 37.007; or
3-6 (3) approving the transfer would supersede a
3-7 court-ordered desegregation plan.
3-8 (h) A school district that denies approval of a transfer
3-9 under this section shall inform the applicant in writing of the
3-10 reason for denying approval of the applicant's transfer.
3-11 (i) A student who transfers to another school district under
3-12 this section may not be charged tuition. The student is included in
3-13 the average daily attendance of the district to which the student
3-14 transfers, beginning on the date the student begins attending
3-15 classes at that district.
3-16 (j) A receiving school district may, but is not required to,
3-17 provide transportation to a student who transfers to the receiving
3-18 district under this section.
3-19 (k) A receiving school district may revoke, at any time
3-20 during the school year, the approval of the student's transfer if
3-21 the student:
3-22 (1) fails to comply with a condition specified in the
3-23 agreement that is:
3-24 (A) a condition specified in the student code of
3-25 conduct under Section 37.001(a)(2);
3-26 (B) a circumstance specified in the student code
3-27 of conduct under Section 37.001(a)(3) that may result in
3-28 out-of-school suspension;
3-29 (C) conduct for which a student is required or
3-30 permitted to be removed from class and placed in a disciplinary
3-31 alternative education program under Section 37.006; or
3-32 (D) conduct for which a student is required or
3-33 permitted to be expelled from school under Section 37.007; or
3-34 (2) fails to maintain a specified school attendance
3-35 rate.
3-36 (l) A student who transfers to another school district or
3-37 district campus as provided by this section may remain at the
3-38 receiving campus until that student completes the highest grade
3-39 level offered at the campus.
3-40 (m) Once a student who transfers to another school district
3-41 or district campus as provided by this section completes the
3-42 highest grade level offered at the receiving campus, the student
3-43 must reapply to continue attending school in the receiving
3-44 district. The district must prioritize admitting the student as
3-45 provided by Subsection (d).
3-46 (n) A school district may not deny admission to a student
3-47 who is currently enrolled in the district, including a student
3-48 enrolled as a transfer student at another campus in the district,
3-49 for the purpose of accepting a transfer applicant under this
3-50 section.
3-51 (o) A school district may not take any adverse action
3-52 against a student enrolled as a transfer student in the district
3-53 based on the fact that the district charged a tuition fee for the
3-54 student to attend school in the district for a previous school year
3-55 under former Section 25.038.
3-56 (p) The commissioner shall adopt rules necessary to
3-57 implement this section, including rules establishing:
3-58 (1) an admissions lottery, as described by Subsection
3-59 (c), and a waitlist as described by Subsection (e); and
3-60 (2) procedures to ensure this section complies with
3-61 state and federal law regarding confidentiality of student medical
3-62 or educational information, including the Health Insurance
3-63 Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d
3-64 et seq.) and the Family Educational Rights and Privacy Act of 1974
3-65 (20 U.S.C. Section 1232g). [A transfer agreement under this section
3-66 shall be filed and preserved as a receiving district record for
3-67 audit purposes of the agency.]
3-68 SECTION 4. Subchapter B, Chapter 25, Education Code, is
3-69 amended by adding Sections 25.046 and 25.047 to read as follows:

4-1 Sec. 25.046. TRANSFER CAPACITY; DISTRICT POLICY. (a)
 4-2 Except as provided by Subsection (c), each year on the first day of
 4-3 January, April, July, and October, the board of trustees of a school
 4-4 district shall determine the capacity of each district campus and
 4-5 the capacity of each grade level offered at each campus. For
 4-6 purposes of this section, the capacity of a district campus or a
 4-7 grade level at that campus is the total number of students that may
 4-8 be admitted at the campus or at that grade level, as applicable,
 4-9 less the students who are currently enrolled at that campus or at
 4-10 that grade level, as applicable. Based on the board's
 4-11 determination of campus or grade level capacity and current student
 4-12 enrollment, the district shall identify the number of available
 4-13 positions at each campus and for each grade level. In determining
 4-14 campus and grade level capacity, the district shall consult the
 4-15 most recent district facility plan, including:

4-16 (1) a facility plan created as part of a district bond
 4-17 proposal; or

4-18 (2) a long-range facility plan created as part of a
 4-19 capital improvement project for which construction services are
 4-20 procured under Chapter 2269, Government Code, in accordance with
 4-21 Section 44.031(a)(5) of this code.

4-22 (b) The district shall post for each campus in the district
 4-23 on the district's Internet website, if the district maintains a
 4-24 website, the most recent determination of campus and grade level
 4-25 capacity. If the district does not maintain a website, the district
 4-26 shall make the information required under this subsection available
 4-27 to the public at an administrative office of the district.

4-28 (c) A school district is not required to determine the
 4-29 capacity of a new instructional facility, as defined by Section
 4-30 48.152, in the first school year in which students attend the new
 4-31 instructional facility.

4-32 (d) The board of trustees of a school district shall adopt a
 4-33 written policy that meets the requirements adopted by the
 4-34 commissioner under Subsection (f) for the admission of a transfer
 4-35 applicant under this subchapter. The board shall make the policy
 4-36 available to the public in the same manner the district makes
 4-37 available a district's determination of campus and grade level
 4-38 capacity under Subsection (b). The policy must include:

4-39 (1) adoption of a transfer application form;

4-40 (2) the provision of the address of the district
 4-41 administrative office where a person may access the district's
 4-42 determination of campus and grade level capacity, if the district
 4-43 does not maintain an Internet website; and

4-44 (3) the provision of information regarding available
 4-45 options for transportation provided by the district or in the
 4-46 community.

4-47 (e) The agency shall post on the agency's Internet website
 4-48 information regarding each school district's policy adopted under
 4-49 this section and each district's campus or grade level capacity
 4-50 determinations under Subsection (a).

4-51 (f) The commissioner shall adopt rules and prescribe
 4-52 procedures necessary to implement this section, including by
 4-53 developing required policies and forms for use by a school district
 4-54 in complying with Subsection (d). In adopting rules to implement
 4-55 this section, the commissioner shall consider feedback from
 4-56 districts and shall prioritize:

4-57 (1) flexibility of access for students;

4-58 (2) encouraging districts to accommodate student
 4-59 transfers; and

4-60 (3) preventing districts from discouraging student
 4-61 transfers.

4-62 Sec. 25.047. REPORTING AND AUDIT REQUIREMENTS. (a)
 4-63 Subject to Subsection (b), each school district shall annually
 4-64 submit not later than the last Friday in October of each school year
 4-65 a report to the agency regarding the transfer of students to and
 4-66 from the district during the previous school year. The report must
 4-67 include:

4-68 (1) for each district campus, the quarterly campus and
 4-69 grade level capacity determinations under Section 25.046;

5-1 (2) for each campus, the number of transfer
5-2 applications for transfers to that campus the district received,
5-3 the number of applications that were granted, and the number of
5-4 applications that were denied, including the reason for the denial,
5-5 during the preceding school year;
5-6 (3) the information described by Subdivisions (1) and
5-7 (2) aggregated for all campuses in the district; and
5-8 (4) for the purposes of demographic analysis, any
5-9 information required by the commissioner as necessary to identify
5-10 each student admitted to or denied admission to a campus in the
5-11 district who is or was previously enrolled in a public school in
5-12 this state.

5-13 (b) A school district with only one campus serving each
5-14 grade level is exempt from Subsection (a)(3).

5-15 (c) Not later than March 15 of each year, the agency shall
5-16 post on the agency's Internet website a report on the transfer and
5-17 assignment of students. The report must include:

5-18 (1) a summary of school district admission practices
5-19 relating to student transfer admissions;
5-20 (2) for the state, the aggregated data reported under
5-21 Subsection (a);
5-22 (3) for each district, the aggregated data reported
5-23 under Subsection (a);
5-24 (4) a demographic analysis of the students
5-25 transferring districts;
5-26 (5) a demographic analysis of the students
5-27 transferring between campuses within the same district;
5-28 (6) for each district, the number of transfer
5-29 applicants seeking admission or withdrawal, showing the potential
5-30 net change in enrollment; and
5-31 (7) for each district, the actual number of students
5-32 who transferred into or out of the district, showing the actual net
5-33 change in enrollment.

5-34 (d) Every sixth year, the agency shall publish a study of
5-35 statewide transfer trends that includes:

5-36 (1) the total number of students transferring
5-37 districts and of students transferring between campuses within the
5-38 same district;
5-39 (2) using data from the previous six school years, an
5-40 analysis at the state and district level of changes in:
5-41 (A) the number of school districts and campuses
5-42 admitting transfer students;
5-43 (B) the number of students transferring
5-44 districts; and
5-45 (C) the number of students transferring between
5-46 campuses within the same district;
5-47 (3) a demographic analysis of the students
5-48 transferring districts and of the students transferring between
5-49 campuses within the same district;
5-50 (4) using data from the previous six school years, an
5-51 analysis of the patterns of student movement between districts and
5-52 campuses, including a description of any characteristics that are
5-53 correlated with students transferring to or away from districts or
5-54 schools;
5-55 (5) a summary of district practices regarding
5-56 transportation of transfer students;
5-57 (6) an explanation of the reasons students choose to
5-58 transfer districts or campuses and the barriers faced by students
5-59 in transferring districts or campuses;
5-60 (7) an explanation of the challenges restricting
5-61 school districts from admitting more transfer students;
5-62 (8) performance outcomes for inter- and
5-63 intra-district transfer students, including changes in student
5-64 proficiency after the date of transfer; and
5-65 (9) the effects of inter-district transfers on student
5-66 performance outcomes and district program offerings for both
5-67 sending and receiving districts.

5-68 (e) Each year, the agency shall randomly select 10 percent
5-69 of the school districts in the state and conduct an audit of each

6-1 district's capacity determination under Section 25.046 and of each
6-2 district's approved and denied transfer applications. If the
6-3 agency finds inaccurate reporting of capacity levels by a school
6-4 district, the agency shall set the capacity for the school
6-5 district. Districts audited during the previous two school years
6-6 may not be selected for audit in a school year.

6-7 (f) The commissioner shall adopt rules necessary to
6-8 implement this section.

6-9 SECTION 5. The following provisions of the Education Code
6-10 are repealed:

- 6-11 (1) Section 25.038;
- 6-12 (2) Sections 25.039(b) and (c); and
- 6-13 (3) Section 48.154.

6-14 SECTION 6. The changes in law made by this Act may not be
6-15 interpreted to affect the authority or existing rules of the
6-16 University Interscholastic League regarding the participation of a
6-17 student in an interscholastic competition.

6-18 SECTION 7. Notwithstanding any other provision of this Act,
6-19 a student accepted for transfer to a school district for the
6-20 2023-2024 school year under Section 25.035 or 25.036, Education
6-21 Code, on a date occurring before the effective date of this Act is
6-22 entitled to transfer to the district for that school year in the
6-23 same manner as any other student accepted for transfer to the
6-24 district for that school year on a date occurring on or after the
6-25 effective date of this Act.

6-26 SECTION 8. Not later than September 1, 2029, the Texas
6-27 Education Agency shall publish the first study of statewide
6-28 transfer trends required under Section 25.047, Education Code, as
6-29 added by this Act.

6-30 SECTION 9. This Act applies beginning with the 2023-2024
6-31 school year.

6-32 SECTION 10. This Act takes effect immediately if it
6-33 receives a vote of two-thirds of all the members elected to each
6-34 house, as provided by Section 39, Article III, Texas Constitution.
6-35 If this Act does not receive the vote necessary for immediate
6-36 effect, this Act takes effect September 1, 2023.

6-37 * * * * *