

## BILL ANALYSIS

Senate Research Center

S.B. 1788  
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Education  
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Enrolled

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, students who are interested in taking courses that are not offered due to the lack of interest by students as a whole are constrained to taking the courses that are offered, regardless if their interests are in another subject.

S.B. 1788 establishes a state virtual school network (network) so students throughout the state can have access to course work which may not otherwise be provided or offered. Sets forth the operational, administrative, and funding requirements of the network.

### RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the State Board of Education in SECTION 1 (Sections 30A.103, Education Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1 (Section 30A.051, 30A.109, 30A.113, 30A.114, 30A.115, 30A.153, and 30A.154, Education Code) of this bill.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle F, Title 2, Education Code, by adding Chapter 30A, as follows:

#### CHAPTER 30A. STATE VIRTUAL SCHOOL NETWORK

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 30A.001. DEFINITIONS. Defines "administering authority," "board," "course," "electronic course," "electronic diagnostic assessment," "electronic professional development course," "provider school district or school," and "public or private institution of higher education."

Sec. 30A.002. STUDENT ELIGIBILITY. Sets forth the students who are eligible to enroll in a course provided through the state virtual school network (network).

Sec. 30A.003. PROVISION OF COMPUTER EQUIPMENT OR INTERNET SERVICE. Provides that this chapter does not require a school district, an open-enrollment charter school, a provider school district or school, or the state to provide a student with home computer equipment or Internet access for a course provided through the network; or prohibit a school district or open-enrollment charter school (district or school) from providing a student with home computer equipment or Internet access for a course provided through the state virtual school network.

Sec. 30A.004. APPLICABILITY OF CHAPTER. (a) Provides that this chapter does not affect the provision of a course to a student while the student is located on the physical premises of a district or school, except as provided under Subsection (c).

(b) Provides that this chapter does not affect the provision of distance learning courses offered under other law.

(c) Authorizes a district or school to choose to participate in providing an electronic course or program or electronic diagnostic assessment under this chapter to as student who is located on the physical premises of a district or school.

Sec. 30A.005. TELECOMMUNICATIONS OR INFORMATION SERVICES NETWORK NOT CREATED. Provides that this chapter does not create or authorize the creation of a telecommunications or information services network.

[Reserves Sections 30A.006-30A.050 for expansion.]

#### SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 30A.051. GOVERNANCE OF NETWORK. (a) Requires the commissioner of education (commissioner) to administer the network, and ensure high-quality education for students in this state who are being educated through electronic courses provided through the network, and ensure equitable access by students to those courses.

(b) Authorizes the commissioner to adopt rules necessary to implement this chapter.

(c) Requires the commissioner, to the extent practicable, to solicit advice from school districts concerning administration of the network and adoption of rules under Subsection (b).

Sec. 30A.052. GENERAL POWERS AND DUTIES OF COMMISSIONER. (a) Requires the commissioner to prepare or provide for preparation of a biennial budget request for the network for presentation to the legislature.

(b) Provides that the commissioner has exclusive jurisdiction over the assets of the network. Requires the commissioner to administer and spend appropriations made for the benefit of the network.

(c) Requires the commissioner to employ a limited number of administrative employees in connection with the network; and contract with a regional education service center for the service center to operate the network.

Sec. 30A.053. DESIGNATION OF ADMINISTERING AUTHORITY. Requires the commissioner to designate an agency employee or a group of agency employees to act as the administering authority for the network (administering authority).

Sec. 30A.054. REPORTS. (a) Requires the commissioner to prepare a report for each fiscal year documenting activities of the network in accordance with this chapter. Requires the commissioner, not later than January 13 of each year, to file the report for the preceding fiscal year with certain state government officials.

(b) Requires that the report include, to the extent permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), the results of assessment instruments administered to the students enrolled in electronic courses under this chapter. Requires the commissioner, to the extent permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), to make information relating to the performance of students enrolled in electronic courses or programs under this chapter available to school districts, open-enrollment charter schools, and the public.

(c) Requires the commissioner to investigate alternative models for funding the operation of the network and for student attendance in electronic courses provided through the network. Requires the commissioner, not later than December 1, 2008, to submit a report to each member of the legislature that recommends alternative funding models for the network to achieve certain purposes; and a system of indicators that would allow for comparison of the quality of different

provider school districts' and schools' electronic courses for the same course, including comparison of certain performance measures, and other indicators as determined by the commissioner.

(d) Provides that Subsection (c) and this subsection expire January 15, 2009.

Sec. 30A.055. LIMITATIONS ON ADMINISTERING AUTHORITY POWERS. Prohibits the administering authority from providing educational services directly to a student.

Sec. 30A.056. CONTRACTS WITH VIRTUAL SCHOOL SERVICE PROVIDERS. (a) Requires that each contract between a school district, and open-enrollment charter school, or a public or private institution of higher education and administering authority to provide that the administering authority is authorized to cancel the contract without penalty if legislative authorization for the district, school, or institution to offer an electronic course through the network is revoked, and requires each contract to be submitted to the commissioner.

(b) Provides that a contract submitted under this section is public information for purposes of Chapter 552 (Public Information), Government Code.

[Reserves Sections 30A.057-30A.100 for expansion.]

#### SUBCHAPTER C. PROVISION OF ELECTRONIC COURSES

Sec. 30A.101. ELIGIBILITY TO ACT AS PROVIDER SCHOOL DISTRICT OR SCHOOL. (a) Provides that a school district is eligible to act as a provider school district under this chapter only if the district is rated academically acceptable or higher under Section 39.072.

(b) Provides that an open-enrollment charter school is eligible to act as a provider district under this chapter only if the school is rated recognized or higher. Authorizes an open-enrollment charter school to serve as a provider school only to a student within the school district in which the school is located or within its service area, whichever is smaller, or to another student in the state through an agreement with the administering authority under Section 30A.153.

Sec. 30A.102. LISTING OF ELECTRONIC COURSES. (a) Requires the administering authority to publish the criteria required by Section 30A.103 for electronic courses that may be offered through the network; to evaluate, using the criteria required under Section 30A.103, electronic courses submitted by a provider school district or school to be offered through the network; create a list of electronic courses approved by the administering authority; and to provide public access to the list of approved electronic courses offered through the network and a detailed description of the courses that complies with Section 30A.108.

(b) Requires the administering authority, for the purpose of ensuring a full range of electronic courses, including advanced placement courses are offered to students in this state, to create a list of those subjects and courses designated by SBOE under Subchapter A (Essential Knowledge and Skills; Curriculum), Chapter 28, for which SBOE had identified essential knowledge and skills or for which SBOE has designated content requirements under Subchapter A, Chapter 28. Requires the administering authority to enter into agreements with school districts open-enrollment charter schools, and public or private institutions of higher education for the purpose of offering the courses through the network. Authorizes the administering authority to develop or authorizes the development of additional electronic courses that are needed to complete high school graduation requirements; and are not otherwise available through the network.

Sec. 30A.103. CRITERIA FOR ELECTRONIC COURSES. (a) Requires SBOE by rule to establish an objective standard criteria for quality of an electronic course to ensure

alignment with the essential knowledge and skills requirements identified or content requirements established under Subchapter A, Chapter 28. Prohibits the criteria from permitting SBOE to prohibit provider school districts or schools from applying for approval or an electronic course for a course for which essential knowledge and skills have been identified.

(b) Requires that the criteria be consistent with Section 30A.104 and prohibits it from including certain requirements.

(c) Requires the commissioner by rule to establish additional quality-related criteria for electronic courses; and provide for a period of public comment regarding the criteria.

(d) Requires that the criteria be in place at least six months before the administering authority uses the criteria in evaluating an electronic course under Section 30A.105.

Sec. 30A.104. **COURSE ELIGIBILITY IN GENERAL.** Requires a course offered through the network to be in a specific subject that is part of the required curriculum under Section 25.082(a); be aligned with the essential knowledge and skills identified under Section 28.002(c); and be the equivalent in instructional rigor and scope to a course that is provided in a traditional classroom setting during a semester on 90 instructional days; and a school day that meets the minimum length of a school day required under Section 25.082.

Sec. 30A.1041. **DRIVER EDUCATION COURSES.** (a) Authorizes a school district, open-enrollment charter school, or public or private institution of higher education to seek approval to offer the classroom portion of a driver education and traffic safety course that complies with the requirements for the program developed under Section 29.902 (Driver Education), through the network.

(b) Prohibits a school district, open-enrollment charter school, or public or private institution of higher education from offering the laboratory portion of a driver education and traffic safety course through the network.

(c) Requires a driver education and traffic safety course offered in compliance with this section to be the equivalent in instructional rigor and scope to a course that is provided in a traditional classroom setting for a period of 56 hours.

Sec. 30A.105. **APPROVAL OF ELECTRONIC COURSES.** Requires the administering authority to establish a schedule for an annual submission and approval process for electronic courses; evaluate electronic courses to be offered through the network; and not later than August 1 of each year, approve electronic courses that meet the criteria established under Section 30A.103; and provide the minimum instructional rigor and scope required under Section 30A.104.

(b) Requires the administering authority to establish the cost of providing an electronic course approved under Subsection (a). Prohibits the cost from exceeding \$400 per student per course or \$4,800 per full-time student.

(c) Requires a school district, open-enrollment charter school, or public or private institution of higher education that submits an electronic course to the administering authority for approval to pay a fee in an amount established by the commissioner as sufficient to recover the reasonable costs to the administering authority in evaluating and approving electronic courses.

(d) Requires the administering authority to waive the fee required by Subsection (c) if a school district, open-enrollment charter school, or public or private institution of higher education applies for approval of an electronic course that was developed independently by the district, school, or institution. Sets forth, for the purpose of Subsection (d)(2), the aspects of a course or program that need to

be developed substantially by a district, school, or institution employee in order for the course or program to be considered as developed independently by a district or school.

Sec. 30A.106. APPEAL TO COMMISSIONER. (a) Authorizes a provider school district or school to appeal to the commissioner the administering authority's refusal to approve an electronic course under Section 30A.105.

(b) Authorizes the commissioner, if the commissioner determines that the administering authority's evaluation did not follow the criteria or was otherwise irregular, to overrule the administering authority and place the course on a list of approved courses. Provides that the commissioner's decision under this section is final and an appeal of the decision is prohibited.

Sec. 30A.107. OPTIONS FOR PROVIDERS AND STUDENTS. (a) Authorizes a provider school district or school to offer electronic courses to students who reside in this state and to students who reside outside this state and who meet the eligibility requirements under Section 30A.002(b).

(b) Authorizes a student who is enrolled in a district or school in this state as a full-time student to take an electronic course or program through the network to take one or more electronic courses through the network.

(c) Authorizes a student who resides in this state but who is not enrolled in a district or school in this state as a full-time student, subject to Section 30A.156, to enroll in electronic courses through the network. Prohibits a person to whom this subsection applies from enrolling in more than two electronic courses offered through the network, in any semester. Provides that a person to whom this subsection applies is not considered to be a public school student. Requires a student to whom this subsection applies to obtain access to a course provided through the network through the school district or open-enrollment charter school attendance zone in which the student resides. Provides that a student to whom this section applies is not entitled to enroll in a course offered by a district or school other than an electronic course provided through the network; and is not entitled to any right, privilege, activities, or services available to a student enrolled in a public school, other than the right to receive the appropriate unit of credit for completing an electronic course.

(d) Prohibits a district or school from requiring a student to enroll in an electronic course.

Sec. 30A.108. INFORMED CHOICE REPORTS. (a) Requires the administering authority, not later than a date determined by the commissioner, to create and maintain on the network's Internet website an "informed choice" report as provided by the commissioner rule.

(b) Requires each report under this section to describe each electronic course offered through the network and to include certain pertinent information.

Sec. 30A.109. COMPULSORY ATTENDANCE. Requires the commissioner by rule to adopt procedures for verifying the attendance of a student enrolled in an electronic course provided through the network. Authorizes the rules to modify the application of Sections 25.085, 25.086, and 25.087 for a student enrolled in an electronic course.

Sec. 30A.110. APPLICABILITY OF ACCOUNTABILITY REQUIREMENTS. (a) Provides that Chapter 39 (Public School System Accountability) applies to an electronic course offered through the network in the same manner that that chapter applies to any other courses offered by a district or school.

(b) Requires each student enrolled under this chapter in an electronic course offered through the network to take any assessment instrument under Section

39.023 that is administered to students who are provided instruction in the course material in the traditional classroom setting. Requires the administration of the assessment instrument to the student enrolled in the electronic course to be supervised by a proctor.

(c) Requires a district or school to report to the commissioner through the Public Education Information Management System (PEIMS) the results of assessment instruments administered to students enrolled in an electronic course offered through the network separately from the results of assessment instruments administered to other students.

Sec. 30A.111. **TEACHER QUALIFICATIONS.** Requires that each teacher of an electronic course offered by a district or school through the network to be certified under Subchapter B (Certification of Educators), Chapter 21, to teach that course and grade level; and successfully complete the appropriate professional development course provided under Section 30A.112(a) before teaching an electronic course offer through the network.

Sec. 30A.112. **EDUCATOR PROFESSIONAL DEVELOPMENT.** Requires the network to provide or authorize providers of electronic professional development courses or programs to provide professional development for teachers who are teaching electronic courses through the network. Authorizes the network to provide or authorize providers of electronic professional development courses to provide professional development for certain other teachers.

Sec. 30A.113. **CRITERIA FOR ELECTRONIC PROFESSIONAL DEVELOPMENT COURSES.** Requires the commissioner by rule to establish objective standard criteria for quality of an electronic professional development course provided under Section 30A.112.

Sec. 30A.114. **REGIONAL EDUCATION SERVICE CENTERS.** Requires the commissioner by rule to allow regional education service centers to participate in the network in the same manner as provider school district and schools.

Sec. 30A.115. **ADDITIONAL RESOURCES.** Authorizes the commissioner by rule to establish procedures for providing additional resources, such as an online library, to students and educators served through the network. Authorizes the administering authority to provide additional resources only if the commissioner receives an appropriation, gift, or grant sufficient to pay the costs of providing those resources.

[Reserves Sections 30A.116-30A.150 for expansion.]

#### SUBCHAPTER D. FUNDING

Sec. 30A.151. **COSTS TO BE BORNE BY STATE.** (a) Requires the state, except as authorized by Section 30A.152 or this section, to pay the cost of operating the network.

(b) Prohibits the operating costs of the network to be charged to a district or school.

(c) Authorizes the costs of providing electronic professional development courses to be paid by state funds appropriated by the legislature or federal funds that are authorized to be used for that purpose.

(d) Provides that state funds received by a district or school under this chapter are in addition to any amounts to which the district or school is entitled to receive or retain under Chapter 12 (Charters), 41 (Equalized Wealth Level), or 42 (Foundation School Program) and are not subject to reduction under any provision of those chapters.

(e) Prohibits state funds provided in connection with the network from being used in a manner that violates Section 7 (Appropriations for Sectarian Purposes), Article I, Texas Constitution.

Sec. 30A.152. GRANTS AND FEDERAL FUNDS. (a) Authorizes the commissioner to accept a grant for purposes of this chapter from a public or private person and requires commissioner to use those funds in accordance with the commissioner's duties regarding the network.

(b) Authorizes the commissioner to accept federal funds for purposes of this chapter and requires SBOE to use those funds in compliance with applicable federal law, regulations, and guidelines.

Sec. 30A.153. ALLOCATION OF FUNDS FOR STUDENTS ENROLLED IN SCHOOL DISTRICTS AND OPEN-ENROLLMENT CHARTER SCHOOLS. (a) Entitles a district or school in which a student is enrolled to receive state and local funding for a student enrolled in an electronic course offered through the network in an amount equal to the cost of providing the electronic course, as established by commissioner rule, plus 20 percent.

(b) Authorizes, as determined by the commissioner for each approved course, a district or school to receive payment for a student enrolled in an electronic course base on certain criteria.

(c) Requires a provider school district or school, the district or school in which a student is enrolled, and the administering authority to enter into an agreement related to the payment of the costs of a student's enrollment in an electronic course. Prohibits the payment to a provider school district or school under this subsection from exceeding the cost of providing the electronic course, as established by commissioner rule.

(d) Requires the agreement under Subsection (c) to permit the district or school in which the student is enrolled as a full-time student to retain, for the district's or school's administrative costs, an amount not to exceed 20 percent of the amount of funds the district or school receives under Subsection (a) in connection with the student; and identify the services each district or school is required to provide to the student.

(e) Requires the administering authority, with the advice of the commissioner, to adopt a standard agreement under Subsection (c) that governs payment of funds and other matters relating to a student's enrollment in an electronic course offered through the network. Requires each district or open-enrollment charter school participating in the network to use the standard agreement as provided by Subsection (c) unless the district or school requests from the commissioner permission to modify the standard agreement and the commissioner authorizes the modification.

Sec. 30A.154. FUNDING FOR ACCELERATED STUDENTS. (a) Authorizes a district or school to apply for additional funding for an accelerated student who is enrolled in more than the course load taken by a student in the equivalent grade level in other school districts or open-enrollment charter schools.

(b) Requires the commissioner by rule to set a limit on the total amount for funding for which an accelerated student is eligible.

(c) Authorizes the legislature in the General Appropriations Act to limit the amount of funding and the number of hours or courses eligible for funding under this section.

Sec. 30A.155. FEES. (a) Authorizes a district or school to charge a fee for enrollment in an electronic course provided through the state virtual school network to a student who resides in this state and meets certain other requirements.

(b) Requires a district or school to charge a fee for enrollment in an electronic course provided through the network to a student who resides in this state and is not enrolled in a district or school as a full-time student.

(c) Prohibits the amount of a fee charged a student under Subsection (a) or (b) from exceeding the lesser of the cost of providing the course or \$400, for each electronic course in which the student enrolls through the network.

(c) Prohibits the network, except as provided by Subsection (a) or (b), from charging a fee to students for electronic courses provided through the network.

SECTION 2. Amends Chapter 26, Education Code, by adding Section 26.0031, as follows:

Sec. 26.0031. RIGHTS CONCERNING STATE VIRTUAL SCHOOL NETWORK. (a) Requires the district or school, at the time and in the manner that a district or school informs students and parents about courses that are offered in the district's or school's traditional classroom setting, to notify parents and students of the option to enroll in an electronic course offered through the network.

(b) Prohibits a district or school in which a student is enrolled as a full-time student from unreasonably denying the request of a parent of a student to enroll the student in an electronic course offered through the network.

(c) Sets forth the circumstances under which, for the purposes of Subsection (b), a school district or open-enrollment charter school is not considered to have unreasonably denied a request to enroll a student in an electronic course.

(d) Requires a district or school that provides an electronic course through the network under Chapter 30A, notwithstanding Subsection (c)(3), to deny a request to enroll a student in an electronic course offered through the network. Provides that the commissioner's decision under this subsection is final and may not be appealed.

(e) Authorizes a parent to appeal to the commissioner from a district's or school's decision to deny a request to enroll a student in an electronic course or program offered through the network. Provides that the commissioner's decision under this subsection is final and may not be appealed.

SECTION 3. Requires the commissioner, subject to Subsection (b), to ensure that the network under Chapter 30A, Education Code, as added by this Act, begins operation in a manner that allows students to enroll in electronic courses offered through the network beginning with the 2008-2009 school year.

(b) Requires the network under Chapter 30A, Education Code, as added by this Act, to provide electronic courses for the 2008-2009 school year for grades 9, 10, 11, and 12; for the 2009-2010 school year for grades six through 12; and for the 2010-2011 and subsequent years for all grades.

SECTION 4. Effective date: September 1, 2007.