

By: Taylor of Galveston, et al.
(VanDeaver)

S.B. No. 2

Substitute the following for S.B. No. 2:

By: VanDeaver

C.S.S.B. No. 2

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the establishment of an education enhancement program
3 for students with certain disabilities.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 29, Education Code, is amended by adding
6 Subchapter J to read as follows:

7 SUBCHAPTER J. EDUCATION ENHANCEMENT PROGRAM FOR STUDENTS WITH
8 DISABILITIES

9 Sec. 29.351. DEFINITIONS. In this subchapter:

10 (1) "Parent" means a resident of this state who is a
11 natural or adoptive parent, managing or possessory conservator,
12 legal guardian, custodian, or other person with legal authority to
13 act on behalf of a child.

14 (2) "Program" means the education enhancement program
15 for students with disabilities established under this subchapter.

16 (3) "Program participant" means a student and a parent
17 of a student who has been accepted into the program.

18 Sec. 29.352. ESTABLISHMENT OF PROGRAM. The commissioner
19 shall establish and administer an education enhancement program for
20 students with disabilities to provide funding for eligible students
21 to obtain educational support services and other resources that:

22 (1) supplement the student's public education;

23 (2) promote and improve the student's overall academic
24 performance; and

1 (3) exceed the level of services that the student's
2 committee has determined to be necessary for the student to receive
3 a free appropriate public education.

4 Sec. 29.353. ELIGIBLE STUDENT. (a) A student is eligible
5 to participate in the program if:

6 (1) the student is enrolled in a school district and
7 was enrolled in that district during the entire preceding school
8 year;

9 (2) the student has one or more of the following
10 disabilities:

11 (A) dyslexia;

12 (B) autism;

13 (C) speech disability; or

14 (D) learning disability; and

15 (3) for one or more disabilities listed in Subdivision
16 (2):

17 (A) an individualized education program has been
18 developed for the student under Section 29.005; or

19 (B) the student is covered by Section 504,
20 Rehabilitation Act of 1973 (29 U.S.C. Section 794).

21 (b) Notwithstanding Subsection (a), a student placed in a
22 residential facility primarily for noneducational reasons is not
23 eligible to participate in the program.

24 Sec. 29.354. APPLICATION PROCESS. (a) On or before the
25 date established by commissioner rule, each school district
26 annually shall provide information regarding the program to a
27 parent of each student enrolled in the district who may be eligible

1 to participate in the program.

2 (b) On or before the date established by commissioner rule,
3 a parent of an eligible student may apply on behalf of the student
4 to the agency for participation in the program for the school year
5 for which the application is made. The school district in which the
6 student is enrolled shall assist the parent in making the
7 application.

8 (c) In accepting students into the program, the
9 commissioner shall:

10 (1) give priority to students who are educationally
11 disadvantaged; and

12 (2) to the greatest extent possible, ensure that the
13 accepted students reflect the diversity of the state.

14 (d) The commissioner annually shall notify each program
15 participant and each school district in which a student
16 participating in the program is enrolled that:

17 (1) a program participant must reapply to participate
18 in the program for each school year in which the participant wishes
19 to participate in the program; and

20 (2) continued acceptance into the program is not
21 guaranteed.

22 Sec. 29.355. ALLOCATION OF MONEY; FINANCING. (a) For each
23 school year, the commissioner shall allocate money available for
24 the program to each school district in which a student
25 participating in the program is enrolled in amounts determined by
26 the commissioner. The total amount of money used for the program
27 for a school year may not exceed \$15 million.

1 (b) The commissioner may only use money appropriated to the
2 Foundation School Program for purposes of the program.

3 Sec. 29.356. QUALIFIED EXPENSES. (a) Funds received under
4 the program may be used only for the following services or goods
5 provided to a program participant by an education service provider
6 or vendor of educational products approved by the commissioner
7 under Section 29.357:

8 (1) costs of transportation for the student to receive
9 educational support services;

10 (2) fees for services provided by a private tutor or
11 teaching service;

12 (3) fees for educational therapies or support services
13 provided by a practitioner or provider;

14 (4) costs of assistive technology; and

15 (5) costs associated with the provision of:

16 (A) in-home and community-based training;

17 (B) positive behavioral support strategies;

18 (C) family training support;

19 (D) communication interventions; and

20 (E) social skills, supports, and strategies
21 training.

22 (b) The parent of a student participating in the program,
23 with the assistance of an employee of the school at which the
24 student is enrolled designated for that purpose by the school's
25 principal, shall select the services or goods allowed under
26 Subsection (a) to be provided to the student under the program and
27 the appropriate education service provider or vendor of educational

1 products to provide those services or goods.

2 (c) On the parent's selection under Subsection (b), the
3 school district in which the parent's student is enrolled shall
4 contract with the selected education service provider or vendor of
5 educational products to provide the selected services or goods to
6 the student.

7 (d) An education service provider or vendor of educational
8 products may not solicit or provide incentives to any program
9 participant to select the provider or vendor to provide services or
10 goods using money distributed under the program.

11 Sec. 29.357. PROVIDER AND VENDOR ACCOUNTABILITY. (a) An
12 education service provider or vendor of educational products must
13 apply to and be approved by the commissioner to receive money
14 distributed under the program.

15 (b) To be eligible for approval under Subsection (a), an
16 education service provider or vendor of educational products must:

17 (1) have operated for at least three consecutive
18 years, including at least one year in this state;

19 (2) provide to the commissioner:

20 (A) either:

21 (i) a current financial audit from a
22 certified public accountant; or

23 (ii) if the provider or vendor is an
24 individual, proof of good standing with the applicable state
25 licensing authority for the services or goods provided;

26 (B) documentation indicating that the provider
27 or vendor has completed a national criminal history record

1 information review within a period established by commissioner
2 rule; and

3 (C) a list of any national or state licenses,
4 certifications, or credentials possessed by the provider or vendor;
5 and

6 (3) agree not to use the national curriculum standards
7 developed by the Common Core State Standards Initiative.

8 (c) In applying for approval under Subsection (a), an
9 education service provider or vendor of educational products may
10 submit to the commissioner a statement listing the services or
11 goods allowed under Section 29.356(a) that the provider or vendor
12 provides to a school district under an existing contract.

13 (d) A parent of a student participating in the program, an
14 employee of the student's school designated under Section
15 29.356(b), or an education service provider or vendor of
16 educational products may appeal the commissioner's rejection of an
17 application submitted under Subsection (a) in accordance with rules
18 established by the commissioner.

19 (e) To maintain approval under this section, an education
20 service provider or vendor of educational products must, with
21 respect to each student for the benefit of whom the provider or
22 vendor contracts with a school district under Section 29.356(c):

23 (1) at the end of each semester, report to the school
24 district regarding the services or goods provided under the
25 contract to the student, including any diagnostic or other
26 evaluative information requested by the district;

27 (2) conduct pre- and post-measurement evaluations of

1 the student and provide the results of those evaluations to the
2 student's parent and the school district; and

3 (3) submit to the school district accurate and
4 complete invoices regarding the services or goods provided to the
5 student.

6 (f) At least once each semester, an education service
7 provider or vendor of educational products selected to provide
8 services or goods to a student participating in the program shall
9 meet with the student's parent and the employee of the student's
10 school designated under Section 29.356(b) at a time and place
11 determined by the school district to discuss the student's progress
12 and to evaluate the continued use of the provider or vendor. The
13 student's parent, designated employee, or provider or vendor may
14 request additional meetings to be held under this subsection.

15 (g) The commissioner annually shall review each approved
16 education service provider or vendor of educational products and,
17 as appropriate, renew or revoke that approval.

18 (h) On approving an education service provider or vendor of
19 educational products under this section, the commissioner shall
20 notify the provider or vendor regarding the annual review of
21 approval under Subsection (g). The notice must include a statement
22 that renewed approval under that subsection is not guaranteed.

23 Sec. 29.358. PROGRAM PARTICIPANT RIGHTS. (a) A student's
24 participation in the program does not affect the student's rights
25 or a school district's obligations with respect to the student
26 under the Individuals with Disabilities Education Act (20 U.S.C.
27 Section 1400 et seq.); Section 504, Rehabilitation Act of 1973 (29

1 U.S.C. Section 794); or the Americans with Disabilities Act of 1990
2 (42 U.S.C. Section 12101 et seq.).

3 (b) An education service provider or vendor of educational
4 products must comply with the federal laws listed in Subsection (a)
5 in providing services or goods to the student under the program.

6 (c) The provision of services or goods to a student under
7 this subchapter does not affect the obligations of any state agency
8 with respect to the student.

9 Sec. 29.359. RULES. The commissioner may adopt rules as
10 necessary to implement this subchapter.

11 Sec. 29.3591. PROGRAM REVIEW. (a) Not later than December
12 31, 2020, the agency shall review the performance of the program and
13 submit to the legislature a report on the agency's conclusions.

14 (b) In conducting the review, the agency shall solicit input
15 from program participants, participating school districts, and
16 education service providers and vendors of educational products
17 approved by the commissioner under Section 29.357.

18 (c) This section expires September 1, 2021.

19 Sec. 29.3592. STUDY ON SPECIAL EDUCATION SERVICES. (a) The
20 agency shall conduct a study on the special education services
21 provided by school districts to students with disabilities to
22 determine whether those services satisfy the requirements under the
23 Individuals with Disabilities Education Act (20 U.S.C. Section 1400
24 et seq.); Section 504, Rehabilitation Act of 1973 (29 U.S.C.
25 Section 794); and the Americans with Disabilities Act of 1990 (42
26 U.S.C. Section 12101 et seq.).

27 (b) In conducting the study, the agency shall survey parents

1 of students with disabilities enrolled in school districts.

2 (c) Not later than September 1, 2018, the agency shall
3 submit to the legislature a report on the results of the study. The
4 report must include a list of services that parents feel are needed
5 but are not currently being provided and the reasons why the listed
6 services are not being provided.

7 (d) This section expires September 1, 2019.

8 Sec. 29.360. EXPIRATION. This subchapter expires August
9 31, 2023.

10 SECTION 2. Section 25.087, Education Code, is amended by
11 adding Subsection (b-7) to read as follows:

12 (b-7) A school district shall excuse a student from
13 attending school during lunch, study hall, or an open period to
14 attend an appointment or meeting with an education service provider
15 or vendor of educational products to receive services or goods
16 provided using money distributed under the education enhancement
17 program for students with disabilities under Subchapter J, Chapter
18 29. This subsection expires August 31, 2023.

19 SECTION 3. Section 25.087(d), Education Code, as amended by
20 S.B. 1152, Acts of the 85th Legislature, Regular Session, 2017, is
21 amended to read as follows:

22 (d) A student whose absence is excused under Subsection (b),
23 (b-1), (b-2), (b-4), (b-5), (b-7), or (c) may not be penalized for
24 that absence and shall be counted as if the student attended school
25 for purposes of calculating the average daily attendance of
26 students in the school district. A student whose absence is excused
27 under Subsection (b), (b-1), (b-2), (b-4), (b-5), (b-7), or (c)

1 shall be allowed a reasonable time to make up school work missed on
2 those days. If the student satisfactorily completes the school
3 work, the day of absence shall be counted as a day of compulsory
4 attendance.

5 SECTION 4. Effective August 31, 2023, Section 25.087(d),
6 Education Code, as amended by S.B. 1152, Acts of the 85th
7 Legislature, Regular Session, 2017, is amended to read as follows:

8 (d) A student whose absence is excused under Subsection (b),
9 (b-1), (b-2), (b-4), (b-5), or (c) may not be penalized for that
10 absence and shall be counted as if the student attended school for
11 purposes of calculating the average daily attendance of students in
12 the school district. A student whose absence is excused under
13 Subsection (b), (b-1), (b-2), (b-4), (b-5), or (c) shall be allowed
14 a reasonable time to make up school work missed on those days. If
15 the student satisfactorily completes the school work, the day of
16 absence shall be counted as a day of compulsory attendance.

17 SECTION 5. Section 25.087, Education Code, as amended by
18 Sections 2 and 3 of this Act, and Sections 29.351-29.359, Education
19 Code, as added by this Act, apply beginning with the 2018-2019
20 school year.

21 SECTION 6. Except as otherwise provided by this Act:

22 (1) this Act takes effect immediately if it receives a
23 vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution; and

25 (2) if this Act does not receive the vote necessary for
26 immediate effect, this Act takes effect on the 91st day after the
27 last day of the legislative session.