

## BILL ANALYSIS

Senate Research Center  
88R31164 JES-F

C.S.H.B. 681  
By: Bell, Keith et al. (Bettencourt)  
Education  
5/21/2023  
Committee Report (Substituted)

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

Over the last three years, districts across the state have transitioned students and teachers into virtual remote learning environments due to the pandemic. The demand for virtual remote learning continued as public education transitioned into a collaborative and innovative 21st century learning environment. Virtual remote learning is not for every student, but during the previous years, a large number of students have excelled in this environment. The State of Texas has made ten years of progress in virtual learning, and it would be a great disservice to see this progress go to waste.

S.B. 15 passed during the second called session of the 87th Legislature:

- H.B. 681 removes expiration dates to subsections of the Education Code:
  - Section 1. Section 21.051
  - Section 2. Section 25.092(a-4)
  - Section 4. Section 48.005(h-1)
  -

H.B. 681 removes specific school year dates to Section 3. Section 29.9091(r).

(Original Author's/Sponsor's Statement of Intent)

Committee Substitute Overview:

- Creates new Chapter 30B to bring multiple pieces of statute under one new unified policy structure, aligned to the unanimous, bipartisan recommendations of the Commission on Virtual Education.
- Repeals Chapter 30A (Texas Virtual School Network) and sunsets Section 29.9091 (S.B. 15 87th (2) Local Remote Learning) in 2025.
- Allows districts and charter schools to offer individual virtual courses, full-time virtual schools, and full-time hybrid schools.
- Provides authorization for new schools, quality controls, school accountability, vendor accountability, funding guidelines, parent and student rights, teacher rights, teacher professional development, and startup grants for districts.

More Detail:

Full-time Hybrid and Full-time Virtual

- Existing virtual and hybrid schools operating under Chapter 30A and S.B. 15 87th(2) Local Remote Learning can continue to operate (until 2025) while bringing their operations and authorization under the new statute.
- New virtual and hybrid schools must be authorized under a new process to be created by commissioner of education (commissioner) rule. The process must include a full year of planning, academic plans, and operational plans.

Individual Virtual Courses

- Only districts and charter schools can offer individual courses, and the Texas Education Agency (TEA) must publish a list of available courses.
- Students can take up to three individual courses without being expected to pay for them, and districts have limited ability to deny enrollment.
- Outlines quality requirements for courses, including TEKS alignment.

#### Parent and Student Rights

- Districts may not require a student to enroll in a virtual course.
- Virtual courses must meet the needs of students receiving SPED services required under state and federal law.
- Requires districts/charters to inform parents and students of the option to enroll in an individual virtual course.
- Parents have the right to appeal if denied enrollment in a virtual course under limited circumstances.

#### Teacher Rights

- Teachers cannot be required to teach virtual and in-person simultaneously.
- Teachers of virtual courses are required to have professional development in virtual instruction, but district or charter can determine previous experience is sufficient in lieu of this requirement.
- Districts cannot coerce teacher hired for in-person instruction to teach virtual or hybrid.

#### Provider Accountability

- Holds vendors and third parties who partner with districts for whole-campus services are accountable for student outcomes, and historical vendor performance is considered during the authorization of new schools.
- If vendor is determined to be ineligible by the commissioner based on poor student outcomes, they remain so for five years, and schools using them must change vendors to maintain authorization.

#### Funding for Full-Time Hybrid and Full-Time Virtual Schools

- Fiscally-neutral process that multiplies full-time hybrid or virtual school enrollment by in-person ADA of the district or charter and allows for proportional funding for students who move between virtual and in-person.

#### State Support

- Requires TEA to develop professional development aligned to research-based best practices for virtual education.
- Provides TEA grants and technical assistance to start new high-quality hybrid and virtual campuses.

#### Emergency Support

- Requires the commissioner to modify or waive attendance requirements for funding purposes for emergency or crisis.

C.S.H.B. 681 amends current law relating to the provision of virtual education in public schools and to certain waivers and modifications by the commissioner of education to the method of calculating average daily attendance in an emergency or crisis for purposes of preserving school district funding entitlements under the Foundation School Program during that emergency or crisis and authorizes a fee.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1.03 (Section 30B.002 and Section 30B.101, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner of education is modified in SECTION 3.02 (Section 7.0561, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner of education is rescinded in SECTION 4.01 (Section 30A.006, 30A.051, 30A.103, 30A.109, 30A.111, 30A.113, 30A.114, 30A.115, and 30A.153, Education Code) of this bill.

Rulemaking authority previously granted to the State Board of Education is rescinded in SECTION 4.01 (Section 30A.103, Education Code) of this bill.

## **SECTION BY SECTION ANALYSIS**

### ARTICLE 1. VIRTUAL EDUCATION

SECTION 1.01. Amends the heading to Section 26.0031, Education Code, to read as follows:

Sec. 26.0031. RIGHTS CONCERNING VIRTUAL COURSES.

SECTION 1.02. Amends Section 26.0031, Education Code, by amending Subsections (a), (b), (c), (c-1), (d), and (e) and adding Subsection (b-1), as follows:

(a) Requires a school district or open-enrollment charter school, at the time and in the manner that the 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 a virtual course offered by the district or school in which the student is enrolled or by another district or school under Chapter 30B, rather than an electronic course offered through the state virtual school network under Chapter 30A (State Virtual School Network).

(b) Makes conforming changes to this subsection.

(b-1) Prohibits a school district or open-enrollment charter school from actively discouraging a student, including by threat or intimidation, from enrolling in a virtual course.

(c) Authorizes a school district or open-enrollment charter school to deny a request to enroll a student in a virtual course, rather than an electronic course, if:

(1) makes no changes to this subdivision;

(2) makes a conforming change to this subdivision; or

(3) the district or school determines that the cost of the course is too high, rather than the district or school offers a substantially similar course.

(c-1) Provides that this subsection does not:

(1) make a conforming change to this subdivision; or

(2) apply to a student enrolled in a full-time virtual program, rather than full-time online program that was operating on January 1, 2013.

Makes a conforming change.

(d) Requires a school district or open-enrollment charter school that provides a virtual course under Chapter 30B, rather than provides an electronic course through the state virtual school network under Chapter 30A, notwithstanding Subsection (c)(2), to make all reasonable efforts to accommodate the enrollment of a student in the course under special circumstances.

(e) Requires a school district or open-enrollment charter school that denies a request to enroll a student in a virtual course under Subsection (c) to provide a written explanation of the denial to the student and the student's parent. Requires that the written explanation provide notice of the student's ability to appeal the decision and an explanation of the appeal process, including the process of pursuing a final appeal heard by the board of trustees of the district or the governing board of the school. Provides that a determination made by the board of trustees of the school district or the governing board of the open-enrollment charter school under this subsection is final and is prohibited from being appealed.

Deletes existing text authorizing a parent to appeal to the commissioner of education (commissioner) a school district's or open-enrollment charter school's decision to deny a request to enroll a student in an electronic course offered through the state virtual school network. Deletes existing text providing that the commissioner's decision under this subsection is final and is prohibited from being appealed.

SECTION 1.03. Amends Subtitle F, Title 2, Education Code, by adding Chapter 30B, as follows:

## CHAPTER 30B. VIRTUAL COURSES AND FULL-TIME HYBRID AND VIRTUAL CAMPUSES

### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 30B.001. DEFINITIONS. Defines "full-time hybrid campus," "full-time virtual campus," "parent," "virtual course," and "whole campus virtual instruction provider."

Sec. 30B.002. RULES. (a) Requires the commissioner to adopt rules as necessary to administer this chapter.

(b) Requires the commissioner, to the extent practicable, to consult school districts, open-enrollment charter schools, and parents in adopting rules under this section.

(c) Authorizes the Texas Education Agency (TEA) to form an advisory committee similar to an advisory committee described by Section 2110.001 (Definition), Government Code, to comply with the provisions of this section. Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to an advisory committee formed under this section.

Sec. 30B.003. GRANTS AND FEDERAL FUNDS. (a) Authorizes the commissioner, for purposes of this chapter, to seek and accept a grant from a public or private person.

(b) Provides that the commissioner, for purposes of this chapter, is authorized to accept federal funds and is required to use those funds in compliance with applicable federal law, regulations, and guidelines.

Sec. 30B.004. PROVISION OF COMPUTER EQUIPMENT OR INTERNET SERVICE. Provides that this chapter does not:

(1) require a school district, an open-enrollment charter school, a virtual course provider, or the state to provide a student with home computer equipment or Internet access for a virtual course provided by a school district or open-enrollment charter school; or

(2) prohibit a school district or open-enrollment charter school from providing a student with home computer equipment or Internet access for a virtual course provided by the district or school.

### SUBCHAPTER B. VIRTUAL COURSES

Sec. 30B.051. VIRTUAL COURSE INSTRUCTION PERMITTED. (a) Authorizes a school district or open-enrollment charter school to deliver instruction through virtual courses in the manner provided by this chapter.

(a-1) Authorizes the following entities to deliver instruction through virtual courses under this chapter in the same manner provided for a school district or open-enrollment charter school:

(1) a consortium of school districts or open-enrollment charter schools;

(2) an institution of higher education, as that term is defined by Section 61.003 (Definitions); or

(3) a regional education service center.

(b) Requires a school district or open-enrollment charter school that delivers instruction through a virtual course to develop written information describing each virtual course available for enrollment and complying with any other requirement of Section 26.0031.

(c) Provides that a school district or open-enrollment charter school is required to make information under this section available to students and parents at the time students ordinarily select courses and is authorized to provide that information to students and parents at other times as determined by the district or school.

Sec. 30B.052. VIRTUAL COURSE QUALITY REQUIREMENTS. Requires a school district or open-enrollment charter school that offers a virtual course under this chapter to certify to the commissioner that the virtual course:

(1) includes the appropriate essential knowledge and skills adopted under Subchapter A (Essential Knowledge and Skills; Curriculum), Chapter 28;

(2) provides instruction at the appropriate level of rigor for the grade level at which the course is offered and will prepare a student enrolled in the course for the student's next grade level or a subsequent course in a similar subject matter; and

(3) meets standards for virtual courses adopted by the commissioner, or, if standards are not adopted by the commissioner for virtual courses, the National Standards for Quality Online Courses published by the Virtual Learning Leadership Alliance, Quality Matters, and the Digital Learning Collaborative, or a successor publication.

Sec. 30B.053. RIGHTS OF STUDENTS REGARDING VIRTUAL COURSES. (a) Prohibits a school district or open-enrollment charter school, except as provided by Section 30B.106(b), from requiring a student to enroll in a virtual course.

(b) Authorizes a student enrolled in a virtual course offered under this chapter to participate in an extracurricular activity sponsored or sanctioned by the school district or open-enrollment charter school in which the student is enrolled or by the University Interscholastic League in the same manner as other district or school students.

(c) Requires a virtual course offered under this chapter to a student receiving special education services or other accommodations must meet the needs of the participating student in a manner consistent with Subchapter A (Special Education Program), Chapter 29, and with federal law, including the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), as applicable.

Sec. 30B.054. RIGHTS OF TEACHERS REGARDING VIRTUAL COURSES. (a) Prohibits a school district or open-enrollment charter school from requiring a classroom teacher to provide both virtual instruction and in-person instruction for a course offered under this chapter during the same class period. Authorizes the commissioner to waive the requirements of this subsection for courses included in the enrichment curriculum under Section 28.002 (Required Curriculum).

(b) Prohibits a classroom teacher from providing instruction for a virtual course offered under this chapter unless:

(1) the teacher has received appropriate professional development in virtual instruction, as determined by the school district or open-enrollment charter school at which the teacher is employed; or

(2) the district or school has determined that the teacher has sufficient previous experience to not require the professional development described by Subdivision (1).

(c) Prohibits a school district or open-enrollment charter school from directly or indirectly coercing any classroom teacher hired to provide in-person instruction to agree to an assignment to teach a virtual course or a course at a full-time hybrid campus.

Sec. 30B.055. ASSESSMENTS. Requires that an assessment instrument administered under Section 39.023 (Adoption and Administration of Instruments) or 39.025 (Secondary-Level Performance Required) to a student enrolled in a virtual course offered under this chapter, except as authorized by commissioner rule, be administered to the student in the same manner in which the assessment instrument is administered to a student enrolled in an in-person course at the student's school district or open-enrollment charter school.

Sec. 30B.056. TUITION AND FEES. Authorizes a school district or open-enrollment charter school to charge tuition and fees for a virtual course provided to a student who:

(1) is not eligible to enroll in a public school in this state; or

(2) is not enrolled in the school district or open-enrollment charter school.

Sec. 30B.057. ATTENDANCE FOR CLASS CREDIT OR GRADE. Requires a school district or open-enrollment charter school to establish the participation necessary to earn credit or a grade for a virtual course offered by the district or school notwithstanding Section 25.092 (Minimum Attendance for Class Credit or Final Grade).

Sec. 30B.058. FOUNDATION SCHOOL FUNDING. Provides that a student enrolled in a virtual course offered under this chapter by a school district or open-enrollment charter school is counted toward the district's or school's average daily attendance in the same manner as district or school students not enrolled in a virtual course.

Sec. 30B.059. AGENCY PUBLICATION OF AVAILABLE COURSES. (a) Requires TEA to publish a list of virtual courses offered by school districts and open-enrollment charter schools in this state that includes:

(1) whether the course is available to a student who is not otherwise enrolled in the offering district or school;

(2) the cost of the course; and

(3) information regarding any third-party provider involved in the delivery of the course.

(b) Requires a school district or open-enrollment charter school to provide to TEA information required to publish the list under Subsection (a).

#### SUBCHAPTER C. FULL-TIME VIRTUAL AND FULL-TIME HYBRID CAMPUSES

Sec. 30B.101. FULL-TIME VIRTUAL OR FULL-TIME HYBRID CAMPUS AUTHORIZATION. (a) Authorizes a school district or open-enrollment charter school to operate a full-time virtual campus or a full-time hybrid campus if authorized by the commissioner in accordance with this section.

(b) Requires the commissioner to adopt rules establishing the requirements for and process by which a school district or open-enrollment charter school is authorized to apply for authorization to operate a full-time virtual campus or a full-time hybrid campus. Provides that the rules adopted by the commissioner are authorized to require certain written application materials and interviews and are required to require a school district or open-enrollment charter school to:

(1) engage in a year of planning before offering a course under this chapter to verify the course is designed in accordance with high-quality criteria;

(2) develop an academic plan that incorporates:

(A) curriculum and instructional practices aligned with the appropriate essential knowledge and skills provided under Subchapter A, Chapter 28;

(B) monitoring of the progress of student performance and interventions;

(C) a method for meeting the needs of and complying with federal and state requirements for special populations and at-risk students; and

(D) compliance with the requirements of this chapter;

(3) develop an operations plan that addresses:

(A) staffing models;

(B) the designation of selected school leaders;

(C) professional development for staff;

(D) student and family engagement;

(E) school calendars and schedules;

(F) student enrollment eligibility;

(G) cybersecurity and student data privacy measures; and

(H) any educational services to be provided by a private or third party; and

(4) demonstrate the capacity to execute the district's or school's plan successfully.

(c) Requires a full-time virtual campus or full-time hybrid campus authorized under this section to include:

(1) at least one grade level in which an assessment instrument is required to be administered under certain sections, including each subject or course for which an assessment instrument is required in that grade level;

(2) sufficient grade levels, as determined by the commissioner, to allow for the annual evaluation of the performance of students who complete the courses offered; or

(3) for a campus that does not include grade levels described by Subdivision (1) or (2), another performance evaluation measure approved by the commissioner during the authorization process.

(d) Authorizes a campus approved under this subchapter to only apply for and receive authorization to operate as a full-time virtual campus or a full-time hybrid campus. Prohibits a campus from changing its operation designation during the authorization process or after the campus is authorized.

(e) Authorizes the commissioner to only authorize a school district or open-enrollment charter school to operate a full-time virtual campus or a full-time hybrid campus if the commissioner determines that the authorization of the campus is likely to result in improved student learning opportunities. Requires the commissioner, if a district or school will use a private or third party in operating the campus, to consider the historical performance of the private or third party, if known, in making a determination under this section.

(f) Provides that a determination made by the commissioner under this section is final and not subject to appeal.

Sec. 30B.102. REVOCATION. (a) Provides that, unless revoked as provided by this section, the commissioner's authorization of a full-time virtual campus or full-time hybrid campus under Section 30B.101 continues indefinitely.

(b) Requires the commissioner to revoke the authorization of a full-time virtual campus or full-time hybrid campus if the campus has been assigned, for the three preceding school years:

(1) an unacceptable performance rating under Subchapter C (Accreditation), Chapter 39;

(2) a financial accountability performance rating under Subchapter D (Financial Accountability), Chapter 39, indicating financial performance lower than satisfactory;

(3) any combination of the ratings described by Subdivision (1) or (2); or

(4) a rating of performance that needs improvement or unacceptable, as determined by the commissioner, on a performance evaluation approved by the commissioner under Section 30B.101(c)(3).

(c) Authorizes the commissioner to, based on a special investigation conducted under Section 39.003 (Special Investigations):

(1) revoke an authorization of a full-time virtual campus or full-time hybrid campus; or

(2) require any intervention authorized under that section.

(d) Requires the commissioner, if a private or third party is determined to be ineligible under Section 30B.104, to revoke an authorization of a full-time virtual campus or full-time hybrid campus for which the private or third party acts as a whole campus virtual instruction provider, unless the commissioner approves a request by the school district or open-enrollment charter school that operates the campus to use an alternative private or third party.

(e) Requires that an appeal by a school district or open-enrollment charter school of a revocation of an authorization under this chapter that results in the closure of a campus be made under Section 39A.301.



Sec. 30B.103. REVISION RELATING TO A PRIVATE OR THIRD PARTY. Requires a school district or open-enrollment charter school to provide notice to the commissioner of the use of or change in affiliation of a private or third party acting as a whole campus virtual instruction provider for the full-time virtual campus or full-time hybrid campus.

Sec. 30B.104. PRIVATE OR THIRD PARTY ACCOUNTABILITY. (a) Requires the commissioner to, to the extent feasible, evaluate the performance of a private or third party acting as a whole campus virtual instruction provider for a school district or open-enrollment charter school.

(b) Requires the commissioner to establish a standard to determine if a private or third party is ineligible to act as a whole campus virtual education provider. Provides that a private or third party determined to be ineligible under this section remains ineligible until after the fifth anniversary of that determination.

Sec. 30B.105. STUDENT ELIGIBILITY. (a) Provides that a student eligible to enroll in a public school of this state is eligible to enroll at a full-time hybrid campus.

(b) Provides that a student is eligible to enroll in a full-time virtual campus if the student:

(1) attended a public school in this state for a minimum of six weeks in the current school year or in the preceding school year;

(2) is, in the school year in which the student first seeks to enroll in the full-time virtual campus, enrolled in the first grade or a lower grade level;

(3) was not required to attend public school in this state due to nonresidency during the preceding school year;

(4) is a dependent of a member of the United States military who has been deployed; or

(5) has been placed in substitute care in this state.

Sec. 30B.106. STUDENT RIGHTS REGARDING FULL-TIME VIRTUAL AND FULL-TIME HYBRID CAMPUSES. (a) Prohibits a student enrolled in a school district from being compelled to enroll in a full-time virtual or full-time hybrid campus. Requires a school district to offer the option for a student's parent to select in-person instruction for the student.

(b) Authorizes an open-enrollment charter school to require a student to attend a full-time virtual or full-time hybrid campus, notwithstanding Subsection (a) or Section 30B.053.

Sec. 30B.107. CAMPUS DESIGNATIONS. Requires the commissioner to determine and assign a unique campus designation number to each full-time virtual campus or full-time hybrid campus authorized under this subchapter.

Sec. 30B.108. FUNDING. (a) Requires the commissioner, for purposes of calculating the average daily attendance of students attending a full-time virtual campus or full-time hybrid campus, to use the number of full-time equivalent students enrolled in the full-time virtual or full-time hybrid campus multiplied by the average attendance rate of the school district or open-enrollment charter school that offers the full-time virtual or full-time hybrid campus not including any student enrolled full-time in a full-time virtual or full-time hybrid campus. Requires the commissioner, in the event that a reliable attendance rate cannot be determined under this section, to use the statewide average attendance rate.

(b) Requires the commissioner to provide proportionate funding to the applicable school district or open-enrollment charter school for a student that alternates attendance between a traditional, in-person campus setting and the full-time virtual or full-time hybrid campus of any single district or school in the same school year.

#### SUBCHAPTER D. STATE SUPPORT

Sec. 30B.151. EDUCATOR PROFESSIONAL DEVELOPMENT. Requires TEA, from funds appropriated or otherwise available, to develop professional development courses and materials aligned with research-based practices for educators in providing high-quality virtual education.

Sec. 30B.152. DEVELOPMENT GRANTS FOR VIRTUAL EDUCATION. Requires TEA, from funds appropriated or otherwise available, to provide grants and technical assistance to school districts and open-enrollment charter schools to aid in the establishment of high-quality full-time virtual or full-time hybrid campuses.

SECTION 1.04. Amends Subchapter A, Chapter 37, Education Code, by adding Section 37.0071, as follows:

Sec. 37.0071. VIRTUAL EDUCATION AS ALTERNATIVE TO EXPULSION. (a) Requires a school district or open-enrollment charter school, before the district or school is authorized to expel a student, except as provided by Subsection (b), to consider the appropriateness and feasibility of enrolling the student in a full-time virtual education program as an alternative to expulsion.

(b) Provides that Subsection (a) does not apply to a student expelled under certain sections.

#### ARTICLE 2. THE FOUNDATION SCHOOL PROGRAM

SECTION 2.01. Amends Section 48.005, Education Code, by adding Subsection (e-1), as follows:

(e-1) Requires the commissioner, in a school year in which the occurrence of an emergency or crisis, as defined by commissioner rule, causes a statewide decrease in average daily attendance of school districts entitled to funding under Chapter 48 (Foundation School Program) or, for an emergency or crisis occurring only within a specific region of this state, causes a regional decrease in the average daily attendance of school districts located in the affected region, to modify or waive requirements applicable to the affected districts under this section and adopt appropriate safeguards as necessary to ensure the continued support and maintenance of an efficient system of public free schools and the continued delivery of high-quality instruction under that system.

SECTION 2.02. Amends Section 48.053(b), Education Code, follows:

(b) Provides that a school district to which this section applies is entitled to funding under this chapter as if the district were a full-time virtual campus or full-time hybrid campus for purposes of Section 30B.108 with no tier one local share for purposes of Section 48.256 (Local Share of Program Cost (Tier One)) for each student enrolled in the district who meets certain criteria. Makes a nonsubstantive change.

#### ARTICLE 3. CONFORMING CHANGES

SECTION 3.01. Amends Section 1.001(b), Education Code, to make a conforming change.

SECTION 3.02. Amends Section 7.0561(f), Education Code, to make conforming changes.

SECTION 3.03. Amends Section 25.007(b), Education Code, to make conforming changes.

SECTION 3.04. Amends Section 33.009(d), Education Code, to make conforming changes.

SECTION 3.05. Amends Section 48.104(f), Education Code, to make conforming changes.

SECTION 3.06. Amends Section 48.111(b), Education Code, to make conforming changes.

#### ARTICLE 4. REPEALER; TRANSITION; EFFECTIVE DATE

SECTION 4.01. Repealers: Sections 21.051(g) (relating to authorizing proposed rules to allow a candidate to satisfy certification requirements through an internship that provides the candidate employment as a teacher for courses offered through a local remote learning program or the state virtual school network) and 25.092(a-4) (relating to authorizing a school district or open-enrollment charter school to adopt a policy to exempt students from the requirements for one or more courses identified in the policy that are offered under a local remote learning program), Education Code

Repealer: Section 26.0031(f) (relating to providing that a school district or open-enrollment charter school from which a parent of a student requests permission to enroll the student in an electronic course offered through the state virtual school network has discretion to select a course provider approved by the network's administering authority for the course in which the student will enroll based on factors including the informed choice report), Education Code.

Repealer: Section 29.9091 (Local Remote Learning Program), Education Code.

Repealer: Chapter 30A (State Virtual School Network), Education Code.

Repealer: Section 39.0549 (Evaluating Virtual and Local Remote Programs), Education Code.

Repealers: Sections 39.301(c-1) (relating to requiring that performance indicators include the performance of students who meet certain criteria) and (c-2) (relating to providing that Subsection (c-1) and this subsection expire September 1, 2023), Education Code.

Repealers: Sections 48.005(h-1) (relating to requiring that time that a student participates in a certain course or program be counted as part of the minimum number of instructional hours required for a student to be considered a full-time student in average daily attendance), Education Code.

Repealer: Section 48.005(m-1) (relating to prohibiting a school district or open-enrollment charter school from counting for purposes of calculating the district's or school's average daily attendance a student who received virtual or remote instruction for a majority of the instructional days during the preceding school year if the student meets certain criteria) and (m-2) (relating to providing that Subsection (m-1) and this subsection expire September 1, 2023), Education Code.

Repealers: Sections 48.053(b-1) (relating to requiring the commissioner to establish an asynchronous progression funding method that may be used to determine the amount of a certain district's entitlement based on full and partial semester course completion) and (b-2) (relating to providing that Subsection (b-1) and this subsection expire September 1, 2023), Education Code.

Repealer: Section 48.0071 (Off-Campus Courses or Programs Counted for Purposes of Average Daily Attendance), Education Code.

SECTION 4.02. (a) Authorizes a school district or open-enrollment charter school providing an electronic course or a full-time program through the state virtual school network in accordance with Chapter 30A, Education Code, as that law existed immediately before the effective date of this Act, notwithstanding the repeal by this Act of Chapter 30A, Education Code, to, except as

provided by Subsection (b) of this section, continue to provide that course or full-time program as if that chapter were still in effect until the end of the 2024-2025 school year.

(b) Requires that the funding provided to a school district or open-enrollment charter school for a student enrolled in an electronic course or full-time program offered through the state virtual school network in accordance with Chapter 30A, Education Code, as that law existed immediately before the effective date of this Act, be determined, as applicable, under Section 30B.058 or 30B.108, Education Code, as added by this Act.

SECTION 4.03. (a) Authorizes a school district or open-enrollment charter school operating a full-time local remote learning program in accordance with Section 29.9091, Education Code, as that law existed immediately before the effective date of this Act, Notwithstanding the repeal by this Act of Section 29.9091, Education Code, to, except as provided by Subsections (b) and (c) of this section, continue to operate the local remote learning program as if that section were still in effect until the end of the 2024-2025 school year.

(b) Provides that a local remote learning program operated by a school district in accordance with Section 29.9091, Education Code, as that section existed immediately before the effective date of this Act, is required to operate in compliance with Section 30B.105, Education Code, as added by this Act, and is prohibited from operating in compliance with Section 29.9091(d) or (e) or Section 48.005(m-1), Education Code, as those sections existed immediately before the effective date of this Act.

(c) Requires that the funding provided to a school district or open-enrollment charter school for a student enrolled in a local remote learning program operated in accordance with Section 29.9091, Education Code, as that law existed immediately before the effective date of this Act, be determined under Section 30B.108, Education Code, as added by this Act.

SECTION 4.04. (a) Authorizes a school district or open-enrollment charter school providing an off-campus electronic course, off-campus electronic program, or instructional program that combines in-person instruction and off-campus electronic instruction in accordance with Section 48.0071, Education Code, as that law existed immediately before the effective date of this Act, notwithstanding the repeal by this Act of Section 48.0071, Education Code, to, except as provided by Subsections (b) and (c) of this section, continue to provide the off-campus electronic course, off-campus electronic program, or instructional program that combines in-person instruction and off-campus electronic instruction as if that section were still in effect until the end of the 2024-2025 school year.

(b) Provides that an off-campus electronic course, off-campus electronic program, or instructional program that combines in-person instruction and off-campus electronic instruction provided by a school district in accordance with Section 48.0071, Education Code, as that section existed immediately before the effective date of this Act, is required to operate in compliance with Section 30B.105, Education Code, as added by this Act, and is prohibited from operating in compliance with Section 48.005(m-1), Education Code, as that section existed immediately before the effective date of this Act.

(c) Requires that the funding provided to a school district or open-enrollment charter school for a student enrolled in an off-campus electronic course, off-campus electronic program, or instructional program that combines in-person instruction and off-campus electronic instruction provided in accordance with Section 48.0071, Education Code, as that law existed immediately before the effective date of this Act, be determined under Section 30B.108, Education Code, as added by this Act.

SECTION 4.05. Requires the commissioner to adopt rules providing an expedited authorization process for a school district or open-enrollment charter school that applies to operate a full-time virtual campus or a full-time hybrid campus under Chapter 30B, Education Code, as added by this Act, if the district or school, as of the effective date of this Act:

- (1) operates an electronic course or full-time program through the state virtual school network in accordance with Chapter 30A, Education Code, as that law existed immediately before the effective date of this Act;
- (2) operates a local remote learning program under Section 29.9091, Education Code, as that law existed immediately before the effective date of this Act; or
- (3) provides electronic instruction in accordance with Section 48.0071, Education Code, as that law existed immediately before the effective date of this Act.

SECTION 4.06. (a) Provides that, notwithstanding any other section of this Act, in a state fiscal year, TEA is not required to implement a provision found in another section of this Act that is drafted as a mandatory provision imposing a duty on TEA to take an action unless money is specifically appropriated to TEA for that fiscal year to carry out that duty. Authorizes TEA to implement the provision in that fiscal year to the extent other funding is available to the agency to do so.

(b) Requires TEA, if, as authorized by Subsection (a) of this section, TEA does not implement the mandatory provision in a state fiscal year, to, in its legislative budget request for the next state fiscal biennium, certify that fact to the Legislative Budget Board and include a written estimate of the costs of implementing the provision in each year of that next state fiscal biennium.

(c) Provides that this section and the suspension of TEA's duty to implement a mandatory provision of this Act, as provided by Subsection (a) of this section, expires and the duty to implement the mandatory provision resumes on September 1, 2027.

SECTION 4.07. Effective date: upon passage or September 1, 2023.