

By: Bettencourt, et al.
(King of Hemphill)

S.B. No. 1861

Substitute the following for S.B. No. 1861:

By: Buckley

C.S.S.B. No. 1861

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the provision of virtual education in public schools
3 and to certain waivers and modifications by the commissioner of
4 education to the method of calculating average daily attendance in
5 an emergency or crisis for purposes of preserving school district
6 funding entitlements under the Foundation School Program during
7 that emergency or crisis; authorizing a fee.

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

9 ARTICLE 1. VIRTUAL EDUCATION

10 SECTION 1.01. The heading to Section 26.0031, Education
11 Code, is amended to read as follows:

12 Sec. 26.0031. RIGHTS CONCERNING ~~[STATE]~~ VIRTUAL COURSES
13 ~~[SCHOOL NETWORK]~~.

14 SECTION 1.02. Section 26.0031, Education Code, is amended
15 by amending Subsections (a), (b), (c), (c-1), (d), and (e) and
16 adding Subsection (b-1) to read as follows:

17 (a) At the time and in the manner that a school district or
18 open-enrollment charter school informs students and parents about
19 courses that are offered in the district's or school's traditional
20 classroom setting, the district or school shall notify parents and
21 students of the option to enroll in a virtual ~~[an electronic]~~ course
22 offered by the district or school in which the student is enrolled
23 or by another district or school ~~[through the state virtual school~~
24 ~~network]~~ under Chapter 30B ~~[30A]~~.

1 (b) Except as provided by Subsection (c), a school district
2 or open-enrollment charter school in which a student is enrolled as
3 a full-time student may not deny the request of a parent of a
4 student to enroll the student in a virtual [~~an electronic~~] course
5 offered by the district or school in which the student is enrolled
6 or by another district or school [~~through the state virtual school~~
7 ~~network~~] under Chapter 30B [~~30A~~].

8 (b-1) A school district or open-enrollment charter school
9 may not actively discourage a student, including by threat or
10 intimidation, from enrolling in a virtual course.

11 (c) A school district or open-enrollment charter school may
12 deny a request to enroll a student in a virtual [~~an electronic~~]
13 course if:

14 (1) a student attempts to enroll in a course load that
15 is inconsistent with the student's high school graduation plan or
16 requirements for college admission or earning an industry
17 certification;

18 (2) the student requests permission to enroll in a
19 virtual [~~an electronic~~] course at a time that is not consistent with
20 the enrollment period established by the school district or
21 open-enrollment charter school providing the course; or

22 (3) the district or school determines that the cost of
23 the course is too high [~~offers a substantially similar course~~].

24 (c-1) A school district or open-enrollment charter school
25 may decline to pay the cost for a student of more than three
26 yearlong virtual [~~electronic~~] courses, or the equivalent, during
27 any school year. This subsection does not:

1 (1) limit the ability of the student to enroll in
2 additional virtual [~~electronic~~] courses at the student's cost; or

3 (2) apply to a student enrolled in a full-time virtual
4 [~~online~~] program [~~that was operating on January 1, 2013~~].

5 (d) Notwithstanding Subsection (c)(2), a school district or
6 open-enrollment charter school that provides a virtual [~~an~~
7 ~~electronic~~] course [~~through the state virtual school network~~] under
8 Chapter 30B [~~30A~~] shall make all reasonable efforts to accommodate
9 the enrollment of a student in the course under special
10 circumstances.

11 (e) A school district or open-enrollment charter school
12 that denies a request to enroll a student in a virtual course under
13 Subsection (c) must provide a written explanation of the denial to
14 the student and the student's parent. The written explanation must
15 provide notice of the student's ability to appeal the decision and
16 an explanation of the appeal process, including the process of
17 pursuing a final appeal heard by the board of trustees of the
18 district or the governing board of the school. A determination made
19 by the board of trustees of the school district or the governing
20 board of the open-enrollment charter school [~~A parent may appeal to~~
21 ~~the commissioner a school district's or open-enrollment charter~~
22 ~~school's decision to deny a request to enroll a student in an~~
23 ~~electronic course offered through the state virtual school network.~~
24 ~~The commissioner's decision~~] under this subsection is final and may
25 not be appealed.

26 SECTION 1.03. Section 29.9091, Education Code, is amended
27 by amending Subsections (a), (d), (e), (n), (o), and (p) to read as

1 follows:

2 (a) A school district or open-enrollment charter school
3 assigned an overall performance rating of C or higher under Section
4 39.054 for the preceding school year or the most recent school year
5 in which a performance rating was assigned may operate a local
6 remote learning program to offer virtual courses [~~outside the state~~
7 ~~virtual school network under Chapter 30A~~] to eligible students.

8 (d) A student is eligible to enroll in a virtual course
9 offered under a local remote learning program if the student:

10 (1) is enrolled in a school district or
11 open-enrollment charter school in fourth through twelfth grade;

12 (2) has reasonable access to in-person services for
13 the course at a district or school facility; and

14 (3) meets any additional criteria, including minimum
15 academic standards, established by the school district or
16 open-enrollment charter school in which the student is enrolled.

17 (e) A school district or open-enrollment charter school
18 that operates a local remote learning program:

19 (1) shall periodically assess the performance of
20 students enrolled in virtual courses under the program; and

21 (2) subject to Subsection (f), may remove a student
22 from virtual courses under the program and return the student to
23 in-person instruction if the district or school determines that the
24 student does not meet the criteria described by Subsection (d) [~~+~~
25 ~~and~~

26 [~~(3) may not count a student for purposes of~~
27 ~~calculating the district's or school's average daily attendance if~~

1 ~~the student has 10 or more unexcused absences in the program in a~~
2 ~~six-month period].~~

3 (n) A ~~[Except as otherwise provided under Subsection~~
4 ~~(e)(3), a]~~ student enrolled in a virtual course offered under a
5 local remote learning program shall be counted toward the school
6 district's or open-enrollment charter school's average daily
7 attendance in the same manner as other district or school
8 students. The commissioner shall adopt rules providing for a
9 method of taking attendance, once each school day, for students
10 enrolled in a virtual course offered under a local remote learning
11 program.

12 (o) Chapter 30B ~~[30A]~~ does not apply to a virtual course
13 offered under a local remote learning program.

14 (p) This section does not prohibit a student enrolled in a
15 school district or open-enrollment charter school that operates a
16 local remote learning program from enrolling in courses offered
17 ~~[through the state virtual school network]~~ under Chapter 30B ~~[30A]~~.

18 SECTION 1.04. Subtitle F, Title 2, Education Code, is
19 amended by adding Chapter 30B to read as follows:

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

22 SUBCHAPTER A. GENERAL PROVISIONS

23 Sec. 30B.001. DEFINITIONS. In this chapter:

24 (1) "Full-time hybrid campus" means a full-time
25 educational program authorized under Subchapter C in which:

26 (A) a student is in attendance in person for less
27 than 90 percent of the minutes of instruction provided; and

1 (B) the instruction and content may be delivered
2 over the Internet, in person, or through other means.

3 (2) "Full-time virtual campus" means a full-time
4 educational program authorized under Subchapter C in which:

5 (A) a student is in attendance in person
6 minimally or not at all; and

7 (B) the instruction and content are delivered
8 primarily over the Internet.

9 (3) "Parent" means a student's parent or a person
10 standing in parental relation to a student.

11 (4) "Virtual course" means a course in which
12 instruction and content are delivered primarily over the Internet.

13 (5) "Whole campus virtual instruction provider" means
14 a private or third-party service that provides oversight and
15 management of the virtual instruction services or otherwise
16 provides a preponderance of those services for a full-time virtual
17 or full-time hybrid campus.

18 Sec. 30B.002. RULES. (a) The commissioner shall adopt
19 rules as necessary to administer this chapter.

20 (b) To the extent practicable, the commissioner shall
21 consult school districts, open-enrollment charter schools, and
22 parents in adopting rules under this section.

23 (c) The agency may form an advisory committee similar to an
24 advisory committee described by Section 2110.001, Government Code,
25 to comply with the provisions of this section. Chapter 2110,
26 Government Code, does not apply to an advisory committee formed
27 under this section.

1 Sec. 30B.003. GRANTS AND FEDERAL FUNDS. (a) For purposes
2 of this chapter, the commissioner may seek and accept a grant from a
3 public or private person.

4 (b) For purposes of this chapter, the commissioner may
5 accept federal funds and shall use those funds in compliance with
6 applicable federal law, regulations, and guidelines.

7 Sec. 30B.004. PROVISION OF COMPUTER EQUIPMENT OR INTERNET
8 SERVICE. This chapter does not:

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

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

18 SUBCHAPTER B. VIRTUAL COURSES

19 Sec. 30B.051. VIRTUAL COURSE INSTRUCTION PERMITTED IN
20 CERTAIN GRADES. (a) A school district or open-enrollment charter
21 school may deliver instruction through virtual courses in the
22 manner provided by this chapter.

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

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

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

3 (3) a regional education service center.

4 (b) A school district or open-enrollment charter school
5 that delivers instruction through a virtual course shall develop
6 written information describing each virtual course available for
7 enrollment and complying with any other requirement of Section
8 26.0031.

9 (c) A school district or open-enrollment charter school
10 shall make information under this section available to students and
11 parents at the time students ordinarily select courses and may
12 provide that information to students and parents at other times as
13 determined by the district or school.

14 (d) Notwithstanding any other law, a student enrolled in
15 prekindergarten through third grade may not enroll in a virtual
16 course.

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

21 (1) includes the appropriate essential knowledge and
22 skills adopted under Subchapter A, Chapter 28;

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

27 (3) meets standards for virtual courses adopted by the

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

6 Sec. 30B.053. RIGHTS OF STUDENTS REGARDING VIRTUAL COURSES.

7 (a) Except as provided by Section 30B.106(b), a school district or
8 open-enrollment charter school may not require a student to enroll
9 in a virtual course.

10 (b) A student enrolled in a virtual course offered under
11 this chapter may participate in an extracurricular activity
12 sponsored or sanctioned by the school district or open-enrollment
13 charter school in which the student is enrolled or by the University
14 Interscholastic League in the same manner as other district or
15 school students.

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

23 Sec. 30B.054. RIGHTS OF TEACHERS REGARDING VIRTUAL COURSES.

24 (a) A school district or open-enrollment charter school may not
25 require a classroom teacher to provide both virtual instruction and
26 in-person instruction for a course offered under this chapter
27 during the same class period. The commissioner may waive the

1 requirements of this subsection for courses included in the
2 enrichment curriculum under Section 28.002.

3 (b) A classroom teacher may not provide instruction for a
4 virtual course offered under this chapter unless:

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

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

12 (c) A school district or open-enrollment charter school may
13 not directly or indirectly coerce any classroom teacher hired to
14 provide in-person instruction to agree to an assignment to teach a
15 virtual course or a course at a full-time hybrid campus.

16 Sec. 30B.055. ASSESSMENTS. Except as authorized by
17 commissioner rule, an assessment instrument administered under
18 Section 39.023 or 39.025 to a student enrolled in a virtual course
19 offered under this chapter shall be administered to the student in
20 the same manner in which the assessment instrument is administered
21 to a student enrolled in an in-person course at the student's school
22 district or open-enrollment charter school.

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

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

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

3 Sec. 30B.057. ATTENDANCE FOR CLASS CREDIT OR GRADE. A
4 school district or open-enrollment charter school shall establish
5 the participation necessary to earn credit or a grade for a virtual
6 course offered by the district or school notwithstanding Section
7 25.092.

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

13 Sec. 30B.059. AGENCY PUBLICATION OF AVAILABLE COURSES. (a)
14 The agency shall publish a list of virtual courses offered by school
15 districts and open-enrollment charter schools in this state that
16 includes:

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

19 (2) the cost of the course; and

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

22 (b) A school district or open-enrollment charter school
23 shall provide to the agency information required to publish the
24 list under Subsection (a).

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

26 Sec. 30B.101. FULL-TIME VIRTUAL OR FULL-TIME HYBRID CAMPUS
27 AUTHORIZATION. (a) A school district or open-enrollment charter

1 school may operate a full-time virtual campus or a full-time hybrid
2 campus if authorized by the commissioner in accordance with this
3 section.

4 (b) The commissioner shall adopt rules establishing the
5 requirements for and process by which a school district or
6 open-enrollment charter school may apply for authorization to
7 operate a full-time virtual campus or a full-time hybrid campus.
8 The rules adopted by the commissioner may require certain written
9 application materials and interviews and shall require a school
10 district or open-enrollment charter school to:

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

14 (2) develop an academic plan that incorporates:

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

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

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

23 (D) compliance with the requirements of this
24 chapter;

25 (3) develop an operations plan that addresses:

26 (A) staffing models;

27 (B) the designation of selected school leaders;

1 (C) professional development for staff;

2 (D) student and family engagement;

3 (E) school calendars and schedules;

4 (F) student enrollment eligibility;

5 (G) cybersecurity and student data privacy
6 measures; and

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

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

11 (c) A full-time virtual campus or full-time hybrid campus
12 authorized under this section must include:

13 (1) at least one grade level in which an assessment
14 instrument is required to be administered under Section 39.023(a)
15 or (c), including each subject or course for which an assessment
16 instrument is required in that grade level;

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

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

24 (d) A campus approved under this subchapter may only apply
25 for and receive authorization to operate as a full-time virtual
26 campus or a full-time hybrid campus. A campus may not change its
27 operation designation during the authorization process or after the

1 campus is authorized.

2 (e) The commissioner may only authorize a school district or
3 open-enrollment charter school to operate a full-time virtual
4 campus or a full-time hybrid campus if the commissioner determines
5 that the authorization of the campus is likely to result in improved
6 student learning opportunities. If a district or school will use a
7 private or third party in operating the campus, the commissioner
8 shall consider the historical performance of the private or third
9 party, if known, in making a determination under this section.

10 (f) A determination made by the commissioner under this
11 section is final and not subject to appeal.

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

16 (b) The commissioner shall revoke the authorization of a
17 full-time virtual campus or full-time hybrid campus if the campus
18 has been assigned, for the three preceding school years:

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

21 (2) a financial accountability performance rating
22 under Subchapter D, Chapter 39, indicating financial performance
23 lower than satisfactory;

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

26 (4) a rating of performance that needs improvement or
27 unacceptable, as determined by the commissioner, on a performance

1 evaluation approved by the commissioner under Section
2 30B.101(c)(3).

3 (c) The commissioner may, based on a special investigation
4 conducted under Section 39.003:

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

7 (2) require any intervention authorized under that
8 section.

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

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

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

27 Sec. 30B.104. PRIVATE OR THIRD PARTY ACCOUNTABILITY. (a)

1 The commissioner shall, to the extent feasible, evaluate the
2 performance of a private or third party acting as a whole campus
3 virtual instruction provider for a school district or
4 open-enrollment charter school.

5 (b) The commissioner shall establish a standard to
6 determine if a private or third party is ineligible to act as a
7 whole campus virtual education provider. A private or third party
8 determined to be ineligible under this section remains ineligible
9 until after the fifth anniversary of that determination.

10 Sec. 30B.105. STUDENT ELIGIBILITY. (a) A student eligible
11 to enroll in fourth through twelfth grade in a public school of this
12 state is eligible to enroll at a full-time hybrid campus.

13 (b) A student is eligible to enroll in a full-time virtual
14 campus if the student is eligible to enroll in fourth through
15 twelfth grade and:

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

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

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

23 (4) has been placed in substitute care in this state.

24 Sec. 30B.106. STUDENT RIGHTS REGARDING FULL-TIME VIRTUAL
25 AND FULL-TIME HYBRID CAMPUSES. (a) A student enrolled in a school
26 district may not be compelled to enroll in a full-time virtual or
27 full-time hybrid campus. A school district must offer the option

1 for a student's parent to select in-person instruction for the
2 student.

3 (b) Notwithstanding Subsection (a) or Section 30B.053, an
4 open-enrollment charter school may require a student to attend a
5 full-time virtual or full-time hybrid campus.

6 Sec. 30B.107. CAMPUS DESIGNATIONS. The commissioner shall
7 determine and assign a unique campus designation number to each
8 full-time virtual campus or full-time hybrid campus authorized
9 under this subchapter.

10 Sec. 30B.108. FUNDING. (a) For purposes of calculating the
11 average daily attendance of students attending a full-time virtual
12 campus or full-time hybrid campus, the commissioner shall use the
13 number of full-time equivalent students enrolled in the full-time
14 virtual or full-time hybrid campus multiplied by the average
15 attendance rate of the school district or open-enrollment charter
16 school that offers the full-time virtual or full-time hybrid campus
17 not including any student enrolled full-time in a full-time virtual
18 or full-time hybrid campus. In the event that a reliable attendance
19 rate cannot be determined under this section, the commissioner
20 shall use the statewide average attendance rate.

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

1 SUBCHAPTER D. STATE SUPPORT

2 Sec. 30B.151. EDUCATOR PROFESSIONAL DEVELOPMENT. From
3 funds appropriated or otherwise available, the agency shall develop
4 professional development courses and materials aligned with
5 research-based practices for educators in providing high-quality
6 virtual education.

7 Sec. 30B.152. DEVELOPMENT GRANTS FOR VIRTUAL EDUCATION.
8 From funds appropriated or otherwise available, the agency shall
9 provide grants and technical assistance to school districts and
10 open-enrollment charter schools to aid in the establishment of
11 high-quality full-time virtual or full-time hybrid campuses.

12 SECTION 1.05. Subchapter A, Chapter 37, Education Code, is
13 amended by adding Section 37.0071 to read as follows:

14 Sec. 37.0071. VIRTUAL EDUCATION AS ALTERNATIVE TO
15 EXPULSION. (a) Except as provided by Subsection (b), before a
16 school district or open-enrollment charter school may expel a
17 student, the district or school shall consider the appropriateness
18 and feasibility of enrolling the student in a full-time virtual
19 education program as an alternative to expulsion.

20 (b) Subsection (a) does not apply to a student expelled
21 under Section 37.0081 or 37.007(a), (d), or (e).

22 ARTICLE 2. THE FOUNDATION SCHOOL PROGRAM

23 SECTION 2.01. Section 48.005, Education Code, is amended by
24 adding Subsection (e-1) to read as follows:

25 (e-1) In a school year in which the occurrence of an
26 emergency or crisis, as defined by commissioner rule, causes a
27 statewide decrease in average daily attendance of school districts

1 entitled to funding under this chapter or, for an emergency or
2 crisis occurring only within a specific region of this state,
3 causes a regional decrease in the average daily attendance of
4 school districts located in the affected region, the commissioner
5 shall modify or waive requirements applicable to the affected
6 districts under this section and adopt appropriate safeguards as
7 necessary to ensure the continued support and maintenance of an
8 efficient system of public free schools and the continued delivery
9 of high-quality instruction under that system.

10 SECTION 2.02. Section 48.053(b), Education Code, is amended
11 to read as follows:

12 (b) A school district to which this section applies is
13 entitled to funding under this chapter as if the district were a
14 full-time virtual campus or full-time hybrid campus for purposes of
15 Section 30B.108 with ~~had~~ no tier one local share for purposes of
16 Section 48.256 for each student enrolled in the district:

17 (1) who resides in this state; or

18 (2) who:

19 (A) is a dependent of a member of the United
20 States military;

21 (B) was previously enrolled in school in this
22 state; and

23 (C) does not reside in this state due to a
24 military deployment or transfer.

25 ARTICLE 3. CONFORMING CHANGES

26 SECTION 3.01. Section 1.001(b), Education Code, is amended
27 to read as follows:

1 (b) Except as provided by Chapter 18, Chapter 19, Subchapter
2 A of Chapter 29, or Subchapter E of Chapter 30, [~~or Chapter 30A,~~]
3 this code does not apply to students, facilities, or programs under
4 the jurisdiction of the Department of Aging and Disability
5 Services, the Department of State Health Services, the Health and
6 Human Services Commission, the Texas Juvenile Justice Department,
7 the Texas Department of Criminal Justice, a Job Corps program
8 operated by or under contract with the United States Department of
9 Labor, or any juvenile probation agency.

10 SECTION 3.02. Section 7.0561(f), Education Code, is amended
11 to read as follows:

12 (f) In consultation with interested school districts,
13 open-enrollment charter schools, and other appropriate interested
14 persons, the commissioner shall adopt rules applicable to the
15 consortium, according to the following principles for a next
16 generation of higher performing public schools:

17 (1) engagement of students in digital learning,
18 including engagement through the use of electronic textbooks and
19 instructional materials adopted under Subchapters B and B-1,
20 Chapter 31, and virtual courses offered by school districts and
21 open-enrollment charter schools under Chapter 30B [~~through the~~
22 ~~state virtual school network under Subchapter 30A~~];

23 (2) emphasis on learning standards that focus on
24 high-priority standards identified in coordination with districts
25 and charter schools participating in the consortium;

26 (3) use of multiple assessments of learning capable of
27 being used to inform students, parents, districts, and charter

1 schools on an ongoing basis concerning the extent to which learning
2 is occurring and the actions consortium participants are taking to
3 improve learning; and

4 (4) reliance on local control that enables communities
5 and parents to be involved in the important decisions regarding the
6 education of their children.

7 SECTION 3.03. Section 25.007(b), Education Code, is amended
8 to read as follows:

9 (b) In recognition of the challenges faced by students who
10 are homeless or in substitute care, the agency shall assist the
11 transition of students who are homeless or in substitute care from
12 one school to another by:

13 (1) ensuring that school records for a student who is
14 homeless or in substitute care are transferred to the student's new
15 school not later than the 10th working day after the date the
16 student begins enrollment at the school;

17 (2) developing systems to ease transition of a student
18 who is homeless or in substitute care during the first two weeks of
19 enrollment at a new school;

20 (3) developing procedures for awarding credit,
21 including partial credit if appropriate, for course work, including
22 electives, completed by a student who is homeless or in substitute
23 care while enrolled at another school;

24 (4) developing procedures to ensure that a new school
25 relies on decisions made by the previous school regarding placement
26 in courses or educational programs of a student who is homeless or
27 in substitute care and places the student in comparable courses or

1 educational programs at the new school, if those courses or
2 programs are available;

3 (5) promoting practices that facilitate access by a
4 student who is homeless or in substitute care to extracurricular
5 programs, summer programs, credit transfer services, virtual
6 [~~electronic~~] courses provided under Chapter 30B [~~30A~~], and
7 after-school tutoring programs at nominal or no cost;

8 (6) establishing procedures to lessen the adverse
9 impact of the movement of a student who is homeless or in substitute
10 care to a new school;

11 (7) entering into a memorandum of understanding with
12 the Department of Family and Protective Services regarding the
13 exchange of information as appropriate to facilitate the transition
14 of students in substitute care from one school to another;

15 (8) encouraging school districts and open-enrollment
16 charter schools to provide services for a student who is homeless or
17 in substitute care in transition when applying for admission to
18 postsecondary study and when seeking sources of funding for
19 postsecondary study;

20 (9) requiring school districts, campuses, and
21 open-enrollment charter schools to accept a referral for special
22 education services made for a student who is homeless or in
23 substitute care by a school previously attended by the student, and
24 to provide comparable services to the student during the referral
25 process or until the new school develops an individualized
26 education program for the student;

27 (10) requiring school districts, campuses, and

1 open-enrollment charter schools to provide notice to the child's
2 educational decision-maker and caseworker regarding events that
3 may significantly impact the education of a child, including:

4 (A) requests or referrals for an evaluation under
5 Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), or
6 special education under Section 29.003;

7 (B) admission, review, and dismissal committee
8 meetings;

9 (C) manifestation determination reviews required
10 by Section 37.004(b);

11 (D) any disciplinary actions under Chapter 37 for
12 which parental notice is required;

13 (E) citations issued for Class C misdemeanor
14 offenses on school property or at school-sponsored activities;

15 (F) reports of restraint and seclusion required
16 by Section 37.0021;

17 (G) use of corporal punishment as provided by
18 Section 37.0011; and

19 (H) appointment of a surrogate parent for the
20 child under Section 29.0151;

21 (11) developing procedures for allowing a student who
22 is homeless or in substitute care who was previously enrolled in a
23 course required for graduation the opportunity, to the extent
24 practicable, to complete the course, at no cost to the student,
25 before the beginning of the next school year;

26 (12) ensuring that a student who is homeless or in
27 substitute care who is not likely to receive a high school diploma

1 before the fifth school year following the student's enrollment in
2 grade nine, as determined by the district, has the student's course
3 credit accrual and personal graduation plan reviewed;

4 (13) ensuring that a student in substitute care who is
5 in grade 11 or 12 be provided information regarding tuition and fee
6 exemptions under Section 54.366 for dual-credit or other courses
7 provided by a public institution of higher education for which a
8 high school student may earn joint high school and college credit;

9 (14) designating at least one agency employee to act
10 as a liaison officer regarding educational issues related to
11 students in the conservatorship of the Department of Family and
12 Protective Services; and

13 (15) providing other assistance as identified by the
14 agency.

15 SECTION 3.04. Section 33.009(d), Education Code, is amended
16 to read as follows:

17 (d) An academy developed under this section must provide
18 counselors and other postsecondary advisors with knowledge and
19 skills to provide counseling to students regarding postsecondary
20 success and productive career planning and must include information
21 relating to:

22 (1) each endorsement described by Section
23 28.025(c-1), including:

24 (A) the course requirements for each
25 endorsement; and

26 (B) the postsecondary educational and career
27 opportunities associated with each endorsement;

1 (2) available methods for a student to earn credit for
2 a course not offered at the school in which the student is enrolled,
3 including enrollment in a virtual [~~an electronic~~] course provided
4 [~~through the state virtual school network~~] under Chapter 30B [~~30A~~];

5 (3) general academic performance requirements for
6 admission to an institution of higher education, including the
7 requirements for automatic admission to a general academic teaching
8 institution under Section 51.803;

9 (4) regional workforce needs, including information
10 about the required education and the average wage or salary for
11 careers that meet those workforce needs; and

12 (5) effective strategies for engaging students and
13 parents in planning for postsecondary education and potential
14 careers, including participation in mentorships and business
15 partnerships.

16 SECTION 3.05. Section 48.104(f), Education Code, is amended
17 to read as follows:

18 (f) A student receiving a full-time virtual education
19 provided through a full-time virtual campus under Chapter 30B
20 [~~through the state virtual school network~~] may be included in
21 determining the number of students who are educationally
22 disadvantaged and reside in an economically disadvantaged census
23 block group under Subsection (b) or (e), as applicable, if the
24 school district submits to the commissioner a plan detailing the
25 enhanced services that will be provided to the student and the
26 commissioner approves the plan.

27 SECTION 3.06. Section 48.111(b), Education Code, is amended

1 to read as follows:

2 (b) For purposes of Subsection (a), in determining the
3 number of students enrolled in a school district, the commissioner
4 shall exclude students enrolled in the district who receive
5 full-time instruction provided through a full-time virtual campus
6 under Chapter 30B [~~through the state virtual school network under~~
7 ~~Chapter 30A~~].

8 ARTICLE 4. REPEALER; TRANSITION; EFFECTIVE DATE

9 SECTION 4.01. The following provisions of the Education
10 Code are repealed:

- 11 (1) Section 21.051(g);
- 12 (2) Section 25.092(a-4);
- 13 (3) Section 26.0031(f);
- 14 (4) Sections 29.9091(q), (r), and (s);
- 15 (5) Chapter 30A;
- 16 (6) Section 39.0549;
- 17 (7) Sections 39.301(c-1) and (c-2);
- 18 (8) Sections 48.005(h-1), (m-1), and (m-2);
- 19 (9) Sections 48.053(b-1) and (b-2); and
- 20 (10) Section 48.0071.

21 SECTION 4.02. (a) Notwithstanding the repeal by this Act of
22 Chapter 30A, Education Code, a school district or open-enrollment
23 charter school providing an electronic course or a full-time
24 program through the state virtual school network in accordance with
25 Chapter 30A, Education Code, as that law existed immediately before
26 the effective date of this Act, may, except as provided by
27 Subsection (b) of this section, continue to provide that course or

1 full-time program as if that chapter were still in effect.

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

9 (c) The commissioner of education may modify the
10 requirements of Chapter 30B, Education Code, as added by this Act,
11 as necessary to provide for the transition of an electronic course
12 or program offered through the state virtual school network under
13 Chapter 30A, Education Code, as that law existed immediately before
14 the effective date of this Act, to a course or program operated
15 under the authority of Chapter 30B, Education Code, as added by this
16 Act.

17 SECTION 4.03. (a) Notwithstanding the repeal by this Act of
18 Section 48.0071, Education Code, a school district or
19 open-enrollment charter school providing an off-campus electronic
20 course, off-campus electronic program, or instructional program
21 that combines in-person instruction and off-campus electronic
22 instruction in accordance with Section 48.0071, Education Code, as
23 that law existed immediately before the effective date of this Act,
24 may, except as provided by Subsections (b) and (c) of this section,
25 continue to provide the off-campus electronic course, off-campus
26 electronic program, or instructional program that combines
27 in-person instruction and off-campus electronic instruction as if

1 that section were still in effect until the end of the 2024-2025
2 school year.

3 (b) An off-campus electronic course, off-campus electronic
4 program, or instructional program that combines in-person
5 instruction and off-campus electronic instruction provided by a
6 school district in accordance with Section 48.0071, Education Code,
7 as that section existed immediately before the effective date of
8 this Act, must operate in compliance with Section 30B.105,
9 Education Code, as added by this Act, and may not operate in
10 compliance with Section 48.005(m-1), Education Code, as that
11 section existed immediately before the effective date of this Act.

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

20 SECTION 4.04. The commissioner of education shall adopt
21 rules providing an expedited authorization process for a school
22 district or open-enrollment charter school that applies to operate
23 a full-time virtual campus or a full-time hybrid campus under
24 Chapter 30B, Education Code, as added by this Act, if the district
25 or school, as of the effective date of this Act:

26 (1) operates an electronic course or full-time program
27 through the state virtual school network in accordance with Chapter

1 30A, Education Code, as that law existed immediately before the
2 effective date of this Act;

3 (2) operates a local remote learning program under
4 Section 29.9091, Education Code, as amended by this Act; or

5 (3) provides electronic instruction in accordance
6 with Section 48.0071, Education Code, as that law existed
7 immediately before the effective date of this Act.

8 SECTION 4.05. (a) Notwithstanding any other section of
9 this Act, in a state fiscal year, the Texas Education Agency is not
10 required to implement a provision found in another section of this
11 Act that is drafted as a mandatory provision imposing a duty on the
12 agency to take an action unless money is specifically appropriated
13 to the agency for that fiscal year to carry out that duty. The Texas
14 Education Agency may implement the provision in that fiscal year to
15 the extent other funding is available to the agency to do so.

16 (b) If, as authorized by Subsection (a) of this section, the
17 Texas Education Agency does not implement the mandatory provision
18 in a state fiscal year, the agency, in its legislative budget
19 request for the next state fiscal biennium, shall certify that fact
20 to the Legislative Budget Board and include a written estimate of
21 the costs of implementing the provision in each year of that next
22 state fiscal biennium.

23 (c) This section and the suspension of the Texas Education
24 Agency's duty to implement a mandatory provision of this Act, as
25 provided by Subsection (a) of this section, expires and the duty to
26 implement the mandatory provision resumes on September 1, 2027.

27 SECTION 4.06. This Act takes effect immediately if it

C.S.S.B. No. 1861

1 receives a vote of two-thirds of all the members elected to each
2 house, as provided by Section 39, Article III, Texas Constitution.
3 If this Act does not receive the vote necessary for immediate
4 effect, this Act takes effect September 1, 2023.