

1-1 By: Bettencourt, West S.B. No. 1861
 1-2 (In the Senate - Filed March 8, 2023; March 9, 2023, read
 1-3 first time and referred to Committee on Education; April 11, 2023,
 1-4 reported adversely, with favorable Committee Substitute by the
 1-5 following vote: Yeas 12, Nays 0; April 11, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			
1-20	X			

1-21 COMMITTEE SUBSTITUTE FOR S.B. No. 1861 By: King

1-22 A BILL TO BE ENTITLED
 1-23 AN ACT

1-24 relating to the provision of virtual education in public schools
 1-25 and to certain waivers and modifications by the commissioner of
 1-26 education to the method of calculating average daily attendance in
 1-27 an emergency or crisis for purposes of preserving school district
 1-28 funding entitlements under the Foundation School Program during
 1-29 that emergency or crisis; authorizing a fee.

1-30 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-31 ARTICLE 1. VIRTUAL EDUCATION

1-32 SECTION 1.01. The heading to Section 26.0031, Education
 1-33 Code, is amended to read as follows:

1-34 Sec. 26.0031. RIGHTS CONCERNING ~~[STATE]~~ VIRTUAL COURSES
 1-35 ~~[SCHOOL NETWORK]~~.

1-36 SECTION 1.02. Section 26.0031, Education Code, is amended
 1-37 by amending Subsections (a), (b), (c), (c-1), (d), and (e) and
 1-38 adding Subsection (b-1) to read as follows:

1-39 (a) At the time and in the manner that a school district or
 1-40 open-enrollment charter school informs students and parents about
 1-41 courses that are offered in the district's or school's traditional
 1-42 classroom setting, the district or school shall notify parents and
 1-43 students of the option to enroll in a virtual ~~[an electronic]~~ course
 1-44 offered by the district or school in which the student is enrolled
 1-45 or by another district or school ~~[through the state virtual school~~
 1-46 ~~network]~~ under Chapter 30B ~~[30A]~~.

1-47 (b) Except as provided by Subsection (c), a school district
 1-48 or open-enrollment charter school in which a student is enrolled as
 1-49 a full-time student may not deny the request of a parent of a
 1-50 student to enroll the student in a virtual ~~[an electronic]~~ course
 1-51 offered by the district or school in which the student is enrolled
 1-52 or by another district or school ~~[through the state virtual school~~
 1-53 ~~network]~~ under Chapter 30B ~~[30A]~~.

1-54 (b-1) A school district or open-enrollment charter school
 1-55 may not actively discourage a student, including by threat or
 1-56 intimidation, from enrolling in a virtual course.

1-57 (c) A school district or open-enrollment charter school may
 1-58 deny a request to enroll a student in a virtual ~~[an electronic]~~
 1-59 course if:

1-60 (1) a student attempts to enroll in a course load that

2-1 is inconsistent with the student's high school graduation plan or
2-2 requirements for college admission or earning an industry
2-3 certification;

2-4 (2) the student requests permission to enroll in a
2-5 virtual [an electronic] course at a time that is not consistent with
2-6 the enrollment period established by the school district or
2-7 open-enrollment charter school providing the course; or

2-8 (3) the district or school determines that the cost of
2-9 the course is too high [offers a substantially similar course].

2-10 (c-1) A school district or open-enrollment charter school
2-11 may decline to pay the cost for a student of more than three
2-12 yearlong virtual [electronic] courses, or the equivalent, during
2-13 any school year. This subsection does not:

2-14 (1) limit the ability of the student to enroll in
2-15 additional virtual [electronic] courses at the student's cost; or

2-16 (2) apply to a student enrolled in a full-time virtual
2-17 [online] program [that was operating on January 1, 2013].

2-18 (d) Notwithstanding Subsection (c)(2), a school district or
2-19 open-enrollment charter school that provides a virtual [an
2-20 electronic] course [through the state virtual school network] under
2-21 Chapter 30B [30A] shall make all reasonable efforts to accommodate
2-22 the enrollment of a student in the course under special
2-23 circumstances.

2-24 (e) A school district or open-enrollment charter school
2-25 that denies a request to enroll a student in a virtual course under
2-26 Subsection (c) must provide a written explanation of the denial to
2-27 the student and the student's parent. The written explanation must
2-28 provide notice of the student's ability to appeal the decision and
2-29 an explanation of the appeal process, including the process of
2-30 pursuing a final appeal heard by the board of trustees of the
2-31 district or the governing board of the school. A determination made
2-32 by the board of trustees of the school district or the governing
2-33 board of the open-enrollment charter school [A parent may appeal to
2-34 the commissioner a school district's or open-enrollment charter
2-35 school's decision to deny a request to enroll a student in an
2-36 electronic course offered through the state virtual school network.
2-37 The commissioner's decision] under this subsection is final and may
2-38 not be appealed.

2-39 SECTION 1.03. Subtitle F, Title 2, Education Code, is
2-40 amended by adding Chapter 30B to read as follows:

2-41 CHAPTER 30B. VIRTUAL COURSES AND FULL-TIME HYBRID AND VIRTUAL
2-42 CAMPUSES

2-43 SUBCHAPTER A. GENERAL PROVISIONS

2-44 Sec. 30B.001. DEFINITIONS. In this chapter:

2-45 (1) "Full-time hybrid campus" means a full-time
2-46 educational program authorized under Subchapter C in which:

2-47 (A) a student is in attendance in person for less
2-48 than 90 percent of the minutes of instruction provided; and

2-49 (B) the instruction and content may be delivered
2-50 over the Internet, in person, or through other means.

2-51 (2) "Full-time virtual campus" means a full-time
2-52 educational program authorized under Subchapter C in which:

2-53 (A) a student is in attendance in person
2-54 minimally or not at all; and

2-55 (B) the instruction and content are delivered
2-56 primarily over the Internet.

2-57 (3) "Parent" means a student's parent or a person
2-58 standing in parental relation to a student.

2-59 (4) "Virtual course" means a course in which
2-60 instruction and content are delivered primarily over the Internet.

2-61 (5) "Whole campus virtual instruction provider" means
2-62 a private or third-party service that provides oversight and
2-63 management of the virtual instruction services or otherwise
2-64 provides a preponderance of those services for a full-time virtual
2-65 or full-time hybrid campus.

2-66 Sec. 30B.002. RULES. (a) The commissioner shall adopt
2-67 rules as necessary to administer this chapter.

2-68 (b) To the extent practicable, the commissioner shall
2-69 consult school districts, open-enrollment charter schools, and

3-1 parents in adopting rules under this section.

3-2 (c) The agency may form an advisory committee similar to an
3-3 advisory committee described by Section 2110.001, Government Code,
3-4 to comply with the provisions of this section. Chapter 2110,
3-5 Government Code, does not apply to an advisory committee formed
3-6 under this section.

3-7 Sec. 30B.003. GRANTS AND FEDERAL FUNDS. (a) For purposes
3-8 of this chapter, the commissioner may seek and accept a grant from a
3-9 public or private person.

3-10 (b) For purposes of this chapter, the commissioner may
3-11 accept federal funds and shall use those funds in compliance with
3-12 applicable federal law, regulations, and guidelines.

3-13 Sec. 30B.004. PROVISION OF COMPUTER EQUIPMENT OR INTERNET
3-14 SERVICE. This chapter does not:

3-15 (1) require a school district, an open-enrollment
3-16 charter school, a virtual course provider, or the state to provide a
3-17 student with home computer equipment or Internet access for a
3-18 virtual course provided by a school district or open-enrollment
3-19 charter school; or

3-20 (2) prohibit a school district or open-enrollment
3-21 charter school from providing a student with home computer
3-22 equipment or Internet access for a virtual course provided by the
3-23 district or school.

3-24 SUBCHAPTER B. VIRTUAL COURSES

3-25 Sec. 30B.051. VIRTUAL COURSE INSTRUCTION PERMITTED. (a) A
3-26 school district or open-enrollment charter school may deliver
3-27 instruction through virtual courses in the manner provided by this
3-28 chapter.

3-29 (a-1) The following entities may deliver instruction
3-30 through virtual courses under this chapter in the same manner
3-31 provided for a school district or open-enrollment charter school:

3-32 (1) a consortium of school districts or
3-33 open-enrollment charter schools;

3-34 (2) an institution of higher education, as that term
3-35 is defined by Section 61.003; or

3-36 (3) a regional education service center.

3-37 (b) A school district or open-enrollment charter school
3-38 that delivers instruction through a virtual course shall develop
3-39 written information describing each virtual course available for
3-40 enrollment and complying with any other requirement of Section
3-41 26.0031.

3-42 (c) A school district or open-enrollment charter school
3-43 shall make information under this section available to students and
3-44 parents at the time students ordinarily select courses and may
3-45 provide that information to students and parents at other times as
3-46 determined by the district or school.

3-47 Sec. 30B.052. VIRTUAL COURSE QUALITY REQUIREMENTS. A
3-48 school district or open-enrollment charter school that offers a
3-49 virtual course under this chapter must certify to the commissioner
3-50 that the virtual course:

3-51 (1) includes the appropriate essential knowledge and
3-52 skills adopted under Subchapter A, Chapter 28;

3-53 (2) provides instruction at the appropriate level of
3-54 rigor for the grade level at which the course is offered and will
3-55 prepare a student enrolled in the course for the student's next
3-56 grade level or a subsequent course in a similar subject matter; and

3-57 (3) meets standards for virtual courses adopted by the
3-58 commissioner, or, if standards are not adopted by the commissioner
3-59 for virtual courses, the National Standards for Quality Online
3-60 Courses published by the Virtual Learning Leadership Alliance,
3-61 Quality Matters, and the Digital Learning Collaborative, or a
3-62 successor publication.

3-63 Sec. 30B.053. RIGHTS OF STUDENTS REGARDING VIRTUAL COURSES.

3-64 (a) Except as provided by Section 30B.106(b), a school district or
3-65 open-enrollment charter school may not require a student to enroll
3-66 in a virtual course.

3-67 (b) A student enrolled in a virtual course offered under
3-68 this chapter may participate in an extracurricular activity
3-69 sponsored or sanctioned by the school district or open-enrollment

4-1 charter school in which the student is enrolled or by the University
4-2 Interscholastic League in the same manner as other district or
4-3 school students.

4-4 (c) A virtual course offered under this chapter to a student
4-5 receiving special education services or other accommodations must
4-6 meet the needs of the participating student in a manner consistent
4-7 with Subchapter A, Chapter 29, and with federal law, including the
4-8 Individuals with Disabilities Education Act (20 U.S.C. Section 1400
4-9 et seq.) and Section 504, Rehabilitation Act of 1973 (29 U.S.C.
4-10 Section 794), as applicable.

4-11 Sec. 30B.054. RIGHTS OF TEACHERS REGARDING VIRTUAL COURSES.

4-12 (a) A school district or open-enrollment charter school may not
4-13 require a classroom teacher to provide both virtual instruction and
4-14 in-person instruction for a course offered under this chapter
4-15 during the same class period. The commissioner may waive the
4-16 requirements of this subsection for courses included in the
4-17 enrichment curriculum under Section 28.002.

4-18 (b) A classroom teacher may not provide instruction for a
4-19 virtual course offered under this chapter unless:

4-20 (1) the teacher has received appropriate professional
4-21 development in virtual instruction, as determined by the school
4-22 district or open-enrollment charter school at which the teacher is
4-23 employed; or

4-24 (2) the district or school has determined that the
4-25 teacher has sufficient previous experience to not require the
4-26 professional development described by Subdivision (1).

4-27 (c) A school district or open-enrollment charter school may
4-28 not directly or indirectly coerce any classroom teacher hired to
4-29 provide in-person instruction to agree to an assignment to teach a
4-30 virtual course or a course at a full-time hybrid campus.

4-31 Sec. 30B.055. ASSESSMENTS. Except as authorized by
4-32 commissioner rule, an assessment instrument administered under
4-33 Section 39.023 or 39.025 to a student enrolled in a virtual course
4-34 offered under this chapter shall be administered to the student in
4-35 the same manner in which the assessment instrument is administered
4-36 to a student enrolled in an in-person course at the student's school
4-37 district or open-enrollment charter school.

4-38 Sec. 30B.056. TUITION AND FEES. A school district or
4-39 open-enrollment charter school may charge tuition and fees for a
4-40 virtual course provided to a student who:

4-41 (1) is not eligible to enroll in a public school in
4-42 this state; or

4-43 (2) is not enrolled in the school district or
4-44 open-enrollment charter school.

4-45 Sec. 30B.057. ATTENDANCE FOR CLASS CREDIT OR GRADE. A
4-46 school district or open-enrollment charter school shall establish
4-47 the participation necessary to earn credit or a grade for a virtual
4-48 course offered by the district or school notwithstanding Section
4-49 25.092.

4-50 Sec. 30B.058. FOUNDATION SCHOOL FUNDING. A student
4-51 enrolled in a virtual course offered under this chapter by a school
4-52 district or open-enrollment charter school is counted toward the
4-53 district's or school's average daily attendance in the same manner
4-54 as district or school students not enrolled in a virtual course.

4-55 Sec. 30B.059. AGENCY PUBLICATION OF AVAILABLE COURSES. (a)
4-56 The agency shall publish a list of virtual courses offered by school
4-57 districts and open-enrollment charter schools in this state that
4-58 includes:

4-59 (1) whether the course is available to a student who is
4-60 not otherwise enrolled in the offering district or school;

4-61 (2) the cost of the course; and

4-62 (3) information regarding any third-party provider
4-63 involved in the delivery of the course.

4-64 (b) A school district or open-enrollment charter school
4-65 shall provide to the agency information required to publish the
4-66 list under Subsection (a).

4-67 SUBCHAPTER C. FULL-TIME VIRTUAL AND FULL-TIME HYBRID CAMPUSES

4-68 Sec. 30B.101. FULL-TIME VIRTUAL OR FULL-TIME HYBRID CAMPUS
4-69 AUTHORIZATION. (a) A school district or open-enrollment charter

5-1 school may operate a full-time virtual campus or a full-time hybrid
5-2 campus if authorized by the commissioner in accordance with this
5-3 section.

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

5-11 (1) engage in a year of planning before offering a
5-12 course under this chapter to verify the course is designed in
5-13 accordance with high-quality criteria;

5-14 (2) develop an academic plan that incorporates:
5-15 (A) curriculum and instructional practices
5-16 aligned with the appropriate essential knowledge and skills
5-17 provided under Subchapter A, Chapter 28;

5-18 (B) monitoring of the progress of student
5-19 performance and interventions;

5-20 (C) a method for meeting the needs of and
5-21 complying with federal and state requirements for special
5-22 populations and at-risk students; and

5-23 (D) compliance with the requirements of this
5-24 chapter;

5-25 (3) develop an operations plan that addresses:

5-26 (A) staffing models;

5-27 (B) the designation of selected school leaders;

5-28 (C) professional development for staff;

5-29 (D) student and family engagement;

5-30 (E) school calendars and schedules;

5-31 (F) student enrollment eligibility;

5-32 (G) cybersecurity and student data privacy

5-33 measures; and

5-34 (H) any educational services to be provided by a

5-35 private or third party; and

5-36 (4) demonstrate the capacity to execute the district's
5-37 or school's plan successfully.

5-38 (c) A full-time virtual campus or full-time hybrid campus
5-39 authorized under this section must include:

5-40 (1) at least one grade level in which an assessment
5-41 instrument is required to be administered under Section 39.023(a)
5-42 or (c), including each subject or course for which an assessment
5-43 instrument is required in that grade level;

5-44 (2) sufficient grade levels, as determined by the
5-45 commissioner, to allow for the annual evaluation of the performance
5-46 of students who complete the courses offered; or

5-47 (3) for a campus that does not include grade levels
5-48 described by Subdivision (1) or (2), another performance evaluation
5-49 measure approved by the commissioner during the authorization
5-50 process.

5-51 (d) A campus approved under this subchapter may only apply
5-52 for and receive authorization to operate as a full-time virtual
5-53 campus or a full-time hybrid campus. A campus may not change its
5-54 operation designation during the authorization process or after the
5-55 campus is authorized.

5-56 (e) The commissioner may only authorize a school district or
5-57 open-enrollment charter school to operate a full-time virtual
5-58 campus or a full-time hybrid campus if the commissioner determines
5-59 that the authorization of the campus is likely to result in improved
5-60 student learning opportunities. If a district or school will use a
5-61 private or third party in operating the campus, the commissioner
5-62 shall consider the historical performance of the private or third
5-63 party, if known, in making a determination under this section.

5-64 (f) A determination made by the commissioner under this
5-65 section is final and not subject to appeal.

5-66 Sec. 30B.102. REVOCATION. (a) Unless revoked as provided
5-67 by this section, the commissioner's authorization of a full-time
5-68 virtual campus or full-time hybrid campus under Section 30B.101
5-69 continues indefinitely.

6-1 (b) The commissioner shall revoke the authorization of a
 6-2 full-time virtual campus or full-time hybrid campus if the campus
 6-3 has been assigned, for the three preceding school years:

6-4 (1) an unacceptable performance rating under
 6-5 Subchapter C, Chapter 39;

6-6 (2) a financial accountability performance rating
 6-7 under Subchapter D, Chapter 39, indicating financial performance
 6-8 lower than satisfactory;

6-9 (3) any combination of the ratings described by
 6-10 Subdivision (1) or (2); or

6-11 (4) a rating of performance that needs improvement or
 6-12 unacceptable, as determined by the commissioner, on a performance
 6-13 evaluation approved by the commissioner under Section
 6-14 30B.101(c)(3).

6-15 (c) The commissioner may, based on a special investigation
 6-16 conducted under Section 39.003:

6-17 (1) revoke an authorization of a full-time virtual
 6-18 campus or full-time hybrid campus; or

6-19 (2) require any intervention authorized under that
 6-20 section.

6-21 (d) If a private or third party is determined to be
 6-22 ineligible under Section 30B.104, the commissioner shall revoke an
 6-23 authorization of a full-time virtual campus or full-time hybrid
 6-24 campus for which the private or third party acts as a whole campus
 6-25 virtual instruction provider, unless the commissioner approves a
 6-26 request by the school district or open-enrollment charter school
 6-27 that operates the campus to use an alternative private or third
 6-28 party.

6-29 (e) An appeal by a school district or open-enrollment
 6-30 charter school of a revocation of an authorization under this
 6-31 chapter that results in the closure of a campus must be made under
 6-32 Section 39A.301.

6-33 Sec. 30B.103. REVISION RELATING TO A PRIVATE OR THIRD
 6-34 PARTY. A school district or open-enrollment charter school shall
 6-35 provide notice to the commissioner of the use of or change in
 6-36 affiliation of a private or third party acting as a whole campus
 6-37 virtual instruction provider for the full-time virtual campus or
 6-38 full-time hybrid campus.

6-39 Sec. 30B.104. PRIVATE OR THIRD PARTY ACCOUNTABILITY. (a)
 6-40 The commissioner shall, to the extent feasible, evaluate the
 6-41 performance of a private or third party acting as a whole campus
 6-42 virtual instruction provider for a school district or
 6-43 open-enrollment charter school.

6-44 (b) The commissioner shall establish a standard to
 6-45 determine if a private or third party is ineligible to act as a
 6-46 whole campus virtual education provider. A private or third party
 6-47 determined to be ineligible under this section remains ineligible
 6-48 until after the fifth anniversary of that determination.

6-49 Sec. 30B.105. STUDENT ELIGIBILITY. (a) A student eligible
 6-50 to enroll in a public school of this state is eligible to enroll at a
 6-51 full-time hybrid campus.

6-52 (b) A student is eligible to enroll in a full-time virtual
 6-53 campus if the student:

6-54 (1) attended a public school in this state for a
 6-55 minimum of six weeks in the current school year or in the preceding
 6-56 school year;

6-57 (2) is, in the school year in which the student first
 6-58 seeks to enroll in the full-time virtual campus, enrolled in the
 6-59 first grade or a lower grade level;

6-60 (3) was not required to attend public school in this
 6-61 state due to nonresidency during the preceding school year;

6-62 (4) is a dependent of a member of the United States
 6-63 military who has been deployed; or

6-64 (5) has been placed in substitute care in this state.

6-65 Sec. 30B.106. STUDENT RIGHTS REGARDING FULL-TIME VIRTUAL
 6-66 AND FULL-TIME HYBRID CAMPUSES. (a) A student enrolled in a school
 6-67 district may not be compelled to enroll in a full-time virtual or
 6-68 full-time hybrid campus. A school district must offer the option
 6-69 for a student's parent to select in-person instruction for the

7-1 student.

7-2 (b) Notwithstanding Subsection (a) or Section 30B.053, an
7-3 open-enrollment charter school may require a student to attend a
7-4 full-time virtual or full-time hybrid campus.

7-5 Sec. 30B.107. CAMPUS DESIGNATIONS. The commissioner shall
7-6 determine and assign a unique campus designation number to each
7-7 full-time virtual campus or full-time hybrid campus authorized
7-8 under this subchapter.

7-9 Sec. 30B.108. FUNDING. (a) For purposes of calculating the
7-10 average daily attendance of students attending a full-time virtual
7-11 campus or full-time hybrid campus, the commissioner shall use the
7-12 number of full-time equivalent students enrolled in the full-time
7-13 virtual or full-time hybrid campus multiplied by the average
7-14 attendance rate of the school district or open-enrollment charter
7-15 school that offers the full-time virtual or full-time hybrid campus
7-16 not including any student enrolled full-time in a full-time virtual
7-17 or full-time hybrid campus. In the event that a reliable attendance
7-18 rate cannot be determined under this section, the commissioner
7-19 shall use the statewide average attendance rate.

7-20 (b) The commissioner shall provide proportionate funding to
7-21 the applicable school district or open-enrollment charter school
7-22 for a student that alternates attendance between a traditional,
7-23 in-person campus setting and the full-time virtual or full-time
7-24 hybrid campus of any single district or school in the same school
7-25 year.

7-26 SUBCHAPTER D. STATE SUPPORT

7-27 Sec. 30B.151. EDUCATOR PROFESSIONAL DEVELOPMENT. From
7-28 funds appropriated or otherwise available, the agency shall develop
7-29 professional development courses and materials aligned with
7-30 research-based practices for educators in providing high-quality
7-31 virtual education.

7-32 Sec. 30B.152. DEVELOPMENT GRANTS FOR VIRTUAL EDUCATION.
7-33 From funds appropriated or otherwise available, the agency shall
7-34 provide grants and technical assistance to school districts and
7-35 open-enrollment charter schools to aid in the establishment of
7-36 high-quality full-time virtual or full-time hybrid campuses.

7-37 ARTICLE 2. THE FOUNDATION SCHOOL PROGRAM

7-38 SECTION 2.01. Section 48.005, Education Code, is amended by
7-39 adding Subsection (e-1) to read as follows:

7-40 (e-1) In a school year in which the occurrence of an
7-41 emergency or crisis, as defined by commissioner rule, causes a
7-42 statewide decrease in average daily attendance of school districts
7-43 entitled to funding under this chapter or, for an emergency or
7-44 crisis occurring only within a specific region of this state,
7-45 causes a regional decrease in the average daily attendance of
7-46 school districts located in the affected region, the commissioner
7-47 shall modify or waive requirements applicable to the affected
7-48 districts under this section and adopt appropriate safeguards as
7-49 necessary to ensure the continued support and maintenance of an
7-50 efficient system of public free schools and the continued delivery
7-51 of high-quality instruction under that system.

7-52 SECTION 2.02. Section 48.053(b), Education Code, is amended
7-53 to read as follows:

7-54 (b) A school district to which this section applies is
7-55 entitled to funding under this chapter as if the district were a
7-56 full-time virtual campus or full-time hybrid campus for purposes of
7-57 Section 30B.108 with ~~had~~ no tier one local share for purposes of
7-58 Section 48.256 for each student enrolled in the district:

- 7-59 (1) who resides in this state; or
- 7-60 (2) who:
 - 7-61 (A) is a dependent of a member of the United
7-62 States military;
 - 7-63 (B) was previously enrolled in school in this
7-64 state; and
 - 7-65 (C) does not reside in this state due to a
7-66 military deployment or transfer.

7-67 ARTICLE 3. CONFORMING CHANGES

7-68 SECTION 3.01. Section 1.001(b), Education Code, is amended
7-69 to read as follows:

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

8-10 SECTION 3.02. Section 7.0561(f), Education Code, is amended
 8-11 to read as follows:

8-12 (f) In consultation with interested school districts,
 8-13 open-enrollment charter schools, and other appropriate interested
 8-14 persons, the commissioner shall adopt rules applicable to the
 8-15 consortium, according to the following principles for a next
 8-16 generation of higher performing public schools:

8-17 (1) engagement of students in digital learning,
 8-18 including engagement through the use of electronic textbooks and
 8-19 instructional materials adopted under Subchapters B and B-1,
 8-20 Chapter 31, and virtual courses offered by school districts and
 8-21 open-enrollment charter schools under Chapter 30B [~~through the~~
 8-22 ~~state virtual school network under Subchapter 30A~~];

8-23 (2) emphasis on learning standards that focus on
 8-24 high-priority standards identified in coordination with districts
 8-25 and charter schools participating in the consortium;

8-26 (3) use of multiple assessments of learning capable of
 8-27 being used to inform students, parents, districts, and charter
 8-28 schools on an ongoing basis concerning the extent to which learning
 8-29 is occurring and the actions consortium participants are taking to
 8-30 improve learning; and

8-31 (4) reliance on local control that enables communities
 8-32 and parents to be involved in the important decisions regarding the
 8-33 education of their children.

8-34 SECTION 3.03. Section 25.007(b), Education Code, is amended
 8-35 to read as follows:

8-36 (b) In recognition of the challenges faced by students who
 8-37 are homeless or in substitute care, the agency shall assist the
 8-38 transition of students who are homeless or in substitute care from
 8-39 one school to another by:

8-40 (1) ensuring that school records for a student who is
 8-41 homeless or in substitute care are transferred to the student's new
 8-42 school not later than the 10th working day after the date the
 8-43 student begins enrollment at the school;

8-44 (2) developing systems to ease transition of a student
 8-45 who is homeless or in substitute care during the first two weeks of
 8-46 enrollment at a new school;

8-47 (3) developing procedures for awarding credit,
 8-48 including partial credit if appropriate, for course work, including
 8-49 electives, completed by a student who is homeless or in substitute
 8-50 care while enrolled at another school;

8-51 (4) developing procedures to ensure that a new school
 8-52 relies on decisions made by the previous school regarding placement
 8-53 in courses or educational programs of a student who is homeless or
 8-54 in substitute care and places the student in comparable courses or
 8-55 educational programs at the new school, if those courses or
 8-56 programs are available;

8-57 (5) promoting practices that facilitate access by a
 8-58 student who is homeless or in substitute care to extracurricular
 8-59 programs, summer programs, credit transfer services, virtual
 8-60 [~~electronic~~] courses provided under Chapter 30B [~~30A~~], and
 8-61 after-school tutoring programs at nominal or no cost;

8-62 (6) establishing procedures to lessen the adverse
 8-63 impact of the movement of a student who is homeless or in substitute
 8-64 care to a new school;

8-65 (7) entering into a memorandum of understanding with
 8-66 the Department of Family and Protective Services regarding the
 8-67 exchange of information as appropriate to facilitate the transition
 8-68 of students in substitute care from one school to another;

8-69 (8) encouraging school districts and open-enrollment

9-1 charter schools to provide services for a student who is homeless or
 9-2 in substitute care in transition when applying for admission to
 9-3 postsecondary study and when seeking sources of funding for
 9-4 postsecondary study;

9-5 (9) requiring school districts, campuses, and
 9-6 open-enrollment charter schools to accept a referral for special
 9-7 education services made for a student who is homeless or in
 9-8 substitute care by a school previously attended by the student, and
 9-9 to provide comparable services to the student during the referral
 9-10 process or until the new school develops an individualized
 9-11 education program for the student;

9-12 (10) requiring school districts, campuses, and
 9-13 open-enrollment charter schools to provide notice to the child's
 9-14 educational decision-maker and caseworker regarding events that
 9-15 may significantly impact the education of a child, including:

9-16 (A) requests or referrals for an evaluation under
 9-17 Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), or
 9-18 special education under Section 29.003;

9-19 (B) admission, review, and dismissal committee
 9-20 meetings;

9-21 (C) manifestation determination reviews required
 9-22 by Section 37.004(b);

9-23 (D) any disciplinary actions under Chapter 37 for
 9-24 which parental notice is required;

9-25 (E) citations issued for Class C misdemeanor
 9-26 offenses on school property or at school-sponsored activities;

9-27 (F) reports of restraint and seclusion required
 9-28 by Section 37.0021;

9-29 (G) use of corporal punishment as provided by
 9-30 Section 37.0011; and

9-31 (H) appointment of a surrogate parent for the
 9-32 child under Section 29.0151;

9-33 (11) developing procedures for allowing a student who
 9-34 is homeless or in substitute care who was previously enrolled in a
 9-35 course required for graduation the opportunity, to the extent
 9-36 practicable, to complete the course, at no cost to the student,
 9-37 before the beginning of the next school year;

9-38 (12) ensuring that a student who is homeless or in
 9-39 substitute care who is not likely to receive a high school diploma
 9-40 before the fifth school year following the student's enrollment in
 9-41 grade nine, as determined by the district, has the student's course
 9-42 credit accrual and personal graduation plan reviewed;

9-43 (13) ensuring that a student in substitute care who is
 9-44 in grade 11 or 12 be provided information regarding tuition and fee
 9-45 exemptions under Section 54.366 for dual-credit or other courses
 9-46 provided by a public institution of higher education for which a
 9-47 high school student may earn joint high school and college credit;

9-48 (14) designating at least one agency employee to act
 9-49 as a liaison officer regarding educational issues related to
 9-50 students in the conservatorship of the Department of Family and
 9-51 Protective Services; and

9-52 (15) providing other assistance as identified by the
 9-53 agency.

9-54 SECTION 3.04. Section 33.009(d), Education Code, is amended
 9-55 to read as follows:

9-56 (d) An academy developed under this section must provide
 9-57 counselors and other postsecondary advisors with knowledge and
 9-58 skills to provide counseling to students regarding postsecondary
 9-59 success and productive career planning and must include information
 9-60 relating to:

9-61 (1) each endorsement described by Section
 9-62 28.025(c-1), including:

9-63 (A) the course requirements for each
 9-64 endorsement; and

9-65 (B) the postsecondary educational and career
 9-66 opportunities associated with each endorsement;

9-67 (2) available methods for a student to earn credit for
 9-68 a course not offered at the school in which the student is enrolled,
 9-69 including enrollment in a virtual [~~an electronic~~] course provided

10-1 [~~through the state virtual school network~~] under Chapter 30B [30A];
 10-2 (3) general academic performance requirements for
 10-3 admission to an institution of higher education, including the
 10-4 requirements for automatic admission to a general academic teaching
 10-5 institution under Section 51.803;
 10-6 (4) regional workforce needs, including information
 10-7 about the required education and the average wage or salary for
 10-8 careers that meet those workforce needs; and
 10-9 (5) effective strategies for engaging students and
 10-10 parents in planning for postsecondary education and potential
 10-11 careers, including participation in mentorships and business
 10-12 partnerships.

ARTICLE 4. REPEALER; TRANSITION; EFFECTIVE DATE

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

- 10-16 (1) Section 21.051(g);
- 10-17 (2) Section 25.092(a-4);
- 10-18 (3) Section 26.0031(f);
- 10-19 (4) Section 29.9091;
- 10-20 (5) Chapter 30A;
- 10-21 (6) Section 39.0549;
- 10-22 (7) Sections 39.301(c-1) and (c-2);
- 10-23 (8) Sections 48.005(h-1), (m-1), and (m-2);
- 10-24 (9) Sections 48.053(b-1) and (b-2);
- 10-25 (10) Section 48.0071;
- 10-26 (11) Section 48.104(f); and
- 10-27 (12) Section 48.111(b).

SECTION 4.02. (a) Notwithstanding the repeal by this Act of Chapter 30A, Education Code, 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, may, 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) 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, shall be determined, as applicable, under Section 30B.058 or 30B.108, Education Code, as added by this Act.

SECTION 4.03. (a) Notwithstanding the repeal by this Act of Section 29.9091, Education Code, 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, may, 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) 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, must operate in compliance with Section 30B.105, Education Code, as added by this Act, and may not operate 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) 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, shall be determined under Section 30B.108, Education Code, as added by this Act.

SECTION 4.04. (a) Notwithstanding the repeal by this Act of Section 48.0071, Education Code, a school district or open-enrollment charter school providing an off-campus electronic

11-1 course, off-campus electronic program, or instructional program
11-2 that combines in-person instruction and off-campus electronic
11-3 instruction in accordance with Section 48.0071, Education Code, as
11-4 that law existed immediately before the effective date of this Act,
11-5 may, except as provided by Subsections (b) and (c) of this section,
11-6 continue to provide the off-campus electronic course, off-campus
11-7 electronic program, or instructional program that combines
11-8 in-person instruction and off-campus electronic instruction as if
11-9 that section were still in effect until the end of the 2024-2025
11-10 school year.

11-11 (b) An off-campus electronic course, off-campus electronic
11-12 program, or instructional program that combines in-person
11-13 instruction and off-campus electronic instruction provided by a
11-14 school district in accordance with Section 48.0071, Education Code,
11-15 as that section existed immediately before the effective date of
11-16 this Act, must operate in compliance with Section 30B.105,
11-17 Education Code, as added by this Act, and may not operate in
11-18 compliance with Section 48.005(m-1), Education Code, as that
11-19 section existed immediately before the effective date of this Act.

11-20 (c) The funding provided to a school district or
11-21 open-enrollment charter school for a student enrolled in an
11-22 off-campus electronic course, off-campus electronic program, or
11-23 instructional program that combines in-person instruction and
11-24 off-campus electronic instruction provided in accordance with
11-25 Section 48.0071, Education Code, as that law existed immediately
11-26 before the effective date of this Act, shall be determined under
11-27 Section 30B.108, Education Code, as added by this Act.

11-28 SECTION 4.05. The commissioner of education shall adopt
11-29 rules providing an expedited authorization process for a school
11-30 district or open-enrollment charter school that applies to operate
11-31 a full-time virtual campus or a full-time hybrid campus under
11-32 Chapter 30B, Education Code, as added by this Act, if the district
11-33 or school, as of the effective date of this Act:

11-34 (1) operates an electronic course or full-time program
11-35 through the state virtual school network in accordance with Chapter
11-36 30A, Education Code, as that law existed immediately before the
11-37 effective date of this Act;

11-38 (2) operates a local remote learning program under
11-39 Section 29.9091, Education Code, as that law existed immediately
11-40 before the effective date of this Act; or

11-41 (3) provides electronic instruction in accordance
11-42 with Section 48.0071, Education Code, as that law existed
11-43 immediately before the effective date of this Act.

11-44 SECTION 4.06. (a) Notwithstanding any other section of
11-45 this Act, in a state fiscal year, the Texas Education Agency is not
11-46 required to implement a provision found in another section of this
11-47 Act that is drafted as a mandatory provision imposing a duty on the
11-48 agency to take an action unless money is specifically appropriated
11-49 to the agency for that fiscal year to carry out that duty. The Texas
11-50 Education Agency may implement the provision in that fiscal year to
11-51 the extent other funding is available to the agency to do so.

11-52 (b) If, as authorized by Subsection (a) of this section, the
11-53 Texas Education Agency does not implement the mandatory provision
11-54 in a state fiscal year, the agency, in its legislative budget
11-55 request for the next state fiscal biennium, shall certify that fact
11-56 to the Legislative Budget Board and include a written estimate of
11-57 the costs of implementing the provision in each year of that next
11-58 state fiscal biennium.

11-59 (c) This section and the suspension of the Texas Education
11-60 Agency's duty to implement a mandatory provision of this Act, as
11-61 provided by Subsection (a) of this section, expires and the duty to
11-62 implement the mandatory provision resumes on September 1, 2027.

11-63 SECTION 4.07. This Act takes effect immediately if it
11-64 receives a vote of two-thirds of all the members elected to each
11-65 house, as provided by Section 39, Article III, Texas Constitution.
11-66 If this Act does not receive the vote necessary for immediate
11-67 effect, this Act takes effect September 1, 2023.

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