

1-1 By: Campbell, Middleton S.B. No. 2368  
 1-2 (In the Senate - Filed March 10, 2023; March 23, 2023, read  
 1-3 first time and referred to Committee on Education; April 24, 2023,  
 1-4 reported favorably by the following vote: Yeas 7, Nays 4, one  
 1-5 present not voting; April 24, 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 A BILL TO BE ENTITLED  
 1-22 AN ACT

1-23 relating to the minimum number of instructional days provided by  
 1-24 public schools.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 25.081, Education Code, is amended to read  
 1-27 as follows:

1-28 Sec. 25.081. OPERATION OF SCHOOLS. (a) Except as  
 1-29 authorized under Subsection (b) of this section, Section 25.0815,  
 1-30 Section 25.084, or Section 29.0821, for each school year each  
 1-31 school district must operate:

1-32 (1) for a minimum of 175 instructional days; and  
 1-33 (2) for at least 75,600 minutes of operation,  
 1-34 including time allocated for instruction, intermissions, and  
 1-35 recesses for students.

1-36 (b) The commissioner may approve the operation of schools  
 1-37 for fewer than the number of instructional days or minutes of  
 1-38 operation required under Subsection (a) if disaster, flood, extreme  
 1-39 weather conditions, fuel curtailment, or another calamity causes  
 1-40 the closing of schools.

1-41 (c) If the commissioner does not approve reduced  
 1-42 instructional days or minutes of operation [time] under Subsection  
 1-43 (b), a school district may add additional instructional days to the  
 1-44 school year or minutes of operation to the end of the district's  
 1-45 normal school hours as necessary to compensate for instructional  
 1-46 days or minutes of operation lost due to school closures caused by  
 1-47 disaster, flood, extreme weather conditions, fuel curtailment, or  
 1-48 another calamity.

1-49 (d) The commissioner may adopt rules to implement this  
 1-50 section, including rules:

1-51 (1) ~~[for the application, on the basis of the minimum~~  
 1-52 ~~minutes of operation required by Subsection (a), of any provision~~  
 1-53 ~~of this title that refers to a minimum number of days of instruction~~  
 1-54 ~~under this section,~~

1-55 ~~[(2)]~~ to determine the minutes of operation that are  
 1-56 equivalent to a day;

1-57 (2) ~~[(3)]~~ defining minutes of operation and  
 1-58 instructional time; and

1-59 (3) ~~[(4)]~~ establishing the minimum number of minutes of  
 1-60 instructional time required for a full-day and a half-day program  
 1-61 to meet the time requirements under Subsection (a).

2-1 (e) A school district or education program is exempt from  
 2-2 the minimum required instructional days or minutes of operation  
 2-3 [~~requirement~~] if the district's or program's average daily  
 2-4 attendance is calculated under Section 48.005(j).

2-5 (f) The commissioner may proportionally reduce the amount  
 2-6 of funding a district receives under Chapter 46, 48, or 49 and the  
 2-7 average daily attendance calculation for the district if the  
 2-8 district operates on a calendar that provides fewer instructional  
 2-9 days or minutes of operation than required under Subsection (a).

2-10 (g) A school district may not provide student instruction on  
 2-11 Memorial Day. If a school district would be required to provide  
 2-12 student instruction on Memorial Day to compensate for instructional  
 2-13 days or minutes of operation [~~instruction~~] lost because of school  
 2-14 closures caused by disaster, flood, extreme weather conditions,  
 2-15 fuel curtailment, or another calamity, the commissioner shall  
 2-16 approve the instruction of students for fewer than the number of  
 2-17 instructional days or minutes of operation required under  
 2-18 Subsection (a).

2-19 SECTION 2. Sections 25.0815(a) and (b), Education Code, are  
 2-20 amended to read as follows:

2-21 (a) The commissioner shall provide a waiver allowing for  
 2-22 fewer instructional days and fewer minutes of operation [~~and~~  
 2-23 ~~instructional time~~] than required under Section 25.081(a) for a  
 2-24 school district that requires each educator employed by the  
 2-25 district to attend an approved school safety training course.

2-26 (b) A waiver under this section:

2-27 (1) must allow sufficient time for the school  
 2-28 district's educators to attend the school safety training course;  
 2-29 and

2-30 (2) may not:

2-31 (A) result in an inadequate number of minutes of  
 2-32 instructional time for students; or

2-33 (B) reduce:

2-34 (i) the number of instructional days by  
 2-35 more than one day; or

2-36 (ii) the number of minutes of operation  
 2-37 [~~and instructional time~~] by more than 420 minutes.

2-38 SECTION 3. Section 29.026(e), Education Code, is amended to  
 2-39 read as follows:

2-40 (e) A program under this section may:

2-41 (1) alter the length of the school day or school year  
 2-42 or the number of instructional days or the minutes of operation  
 2-43 allocated to instruction for [~~received by~~] students;

2-44 (2) coordinate services with private or  
 2-45 community-based providers;

2-46 (3) allow the enrollment of students without  
 2-47 disabilities or with other disabilities, if approved by the  
 2-48 commissioner; and

2-49 (4) adopt staff qualifications and staff to student  
 2-50 ratios that differ from the applicable requirements of this title.

2-51 SECTION 4. Section 29.0822(c), Education Code, is amended to  
 2-52 read as follows:

2-53 (c) Except in the case of a course designed for a student  
 2-54 described by Subsection (a)(3) or enrolled in a course described by  
 2-55 Subsection (b)(4), a course offered in a program under this section  
 2-56 must provide for at least the same number of instructional hours as  
 2-57 required for a course offered in a program that meets the required  
 2-58 minimum number of instructional days [~~minutes of operation~~] under  
 2-59 Section 25.081.

2-60 SECTION 5. Section 29.162(a), Education Code, is amended to  
 2-61 read as follows:

2-62 (a) The commissioner may adopt rules for this subchapter,  
 2-63 including rules establishing full-day and half-day instructional  
 2-64 days and minutes of operation requirements as provided by Section  
 2-65 25.081.

2-66 SECTION 6. Section 37.011(f), Education Code, is amended to  
 2-67 read as follows:

2-68 (f) A juvenile justice alternative education program must  
 2-69 operate at least seven hours per day and 175 [~~180~~] days per year,

3-1 except that a program may apply to the Texas Juvenile Justice  
3-2 Department for a waiver of the 175-day [~~180-day~~] requirement. The  
3-3 department may not grant a waiver to a program under this subsection  
3-4 for a number of days that exceeds the highest number of  
3-5 instructional days waived by the commissioner during the same  
3-6 school year for a school district served by the program.

3-7 SECTION 7. Sections 48.005(i), (j), and (m), Education  
3-8 Code, are amended to read as follows:

3-9 (i) A district or a charter school operating under Chapter  
3-10 12 that operates a prekindergarten program is eligible to receive  
3-11 one-half of average daily attendance under Subsection (a) if the  
3-12 district's or charter school's prekindergarten program provides at  
3-13 least 32,400 minutes of instructional time to students over the  
3-14 minimum required number of instructional days.

3-15 (j) A district or charter school is eligible to earn full  
3-16 average daily attendance under Subsection (a) if the district or  
3-17 school provides at least 43,200 minutes of instructional time  
3-18 during a school year to students enrolled in:

3-19 (1) a dropout recovery school or program operating  
3-20 under Section 12.1141(c) or Section 39.0548;

3-21 (2) an alternative education program operating under  
3-22 Section 37.008;

3-23 (3) a school program located at a day treatment  
3-24 facility, residential treatment facility, psychiatric hospital, or  
3-25 medical hospital;

3-26 (4) a school program offered at a correctional  
3-27 facility; or

3-28 (5) a school operating under Subchapter G, Chapter 12.

3-29 (m) The commissioner shall adopt rules necessary to implement  
3-30 this section, including rules that:

3-31 (1) establish the minimum amount of instructional time  
3-32 per day that allows a school district or charter school to be  
3-33 eligible for full average daily attendance, which may differ based  
3-34 on the instructional program offered by the district or charter  
3-35 school;

3-36 (2) establish the requirements necessary for a school  
3-37 district or charter school to be eligible for one-half of average  
3-38 daily attendance, which may differ based on the instructional  
3-39 program offered by the district or charter school;

3-40 (3) proportionally reduce the average daily  
3-41 attendance for a school district if any campus or instructional  
3-42 program in the district provides to students fewer than the  
3-43 required minimum number of instructional days or minutes of  
3-44 operation [~~instruction to students~~]; and

3-45 (4) allow a grade or course repeated under Section  
3-46 28.02124 to qualify for average daily attendance even if the  
3-47 student previously passed or earned credit for the grade or course,  
3-48 if the grade or course would otherwise be eligible.

3-49 SECTION 8. Section 48.0051(a), Education Code, is amended  
3-50 to read as follows:

3-51 (a) Subject to Subsection (a-1), the commissioner shall  
3-52 adjust the average daily attendance of a school district or  
3-53 open-enrollment charter school under Section 48.005 in the manner  
3-54 provided by Subsection (b) if the district or school:

3-55 (1) provides the minimum number of minutes of  
3-56 operational and instructional time required under Section 25.081  
3-57 and commissioner rules adopted under that section over the minimum  
3-58 required number of instructional days or minutes of operation [~~at~~  
3-59 ~~least 180 days of instruction~~]; and

3-60 (2) offers an additional 30 days of half-day  
3-61 instruction for students enrolled in prekindergarten through fifth  
3-62 grade.

3-63 SECTION 9. This Act applies beginning with the 2024-2025  
3-64 school year.

3-65 SECTION 10. This Act takes effect September 1, 2023.

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