

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**March 29, 2023**

**TO:** Honorable Brandon Creighton, Chair, Senate Committee on Education

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: SB1861** by Bettencourt (Relating to the provision of virtual education in public schools and to certain waivers and modifications by the commissioner of education to the method of calculating average daily attendance in an emergency or crisis for purposes of preserving school district funding entitlements under the Foundation School Program during that emergency or crisis; authorizing a fee.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB1861, As Introduced : a negative impact of (\$49,712,000) through the biennium ending August 31, 2025.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five- Year Impact:**

<i>Fiscal Year</i>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2024	(\$23,804,000)
2025	(\$25,908,000)
2026	(\$22,022,000)
2027	(\$22,022,000)
2028	(\$22,022,000)

**All Funds, Five-Year Impact:**

<i>Fiscal Year</i>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>	<b>Probable Savings/(Cost) from Foundation School Fund 193</b>	<b>Probable Savings/(Cost) from Recapture Payments Atten Crdts 8905</b>	<b>Change in Number of State Employees from FY 2023</b>
2024	(\$7,803,000)	(\$16,001,000)	\$1,600,000	6.0
2025	(\$9,907,000)	(\$16,001,000)	\$1,600,000	6.0
2026	(\$6,021,000)	(\$16,001,000)	\$1,600,000	6.0
2027	(\$6,021,000)	(\$16,001,000)	\$1,600,000	6.0
2028	(\$6,021,000)	(\$16,001,000)	\$1,600,000	6.0

**Fiscal Analysis**

The bill would amend statute related to local remote programs and the state virtual school network. These changes would expand the eligibility for districts and charter schools to offer students virtual courses, as well as allow the Commissioner of Education to authorize high quality full-time virtual and hybrid campuses.

The bill would establish requirements for the Commissioner's authorization of full-time hybrid and virtual campuses, and would require the Texas Education Agency (TEA) to develop professional development courses and materials and provide grants and technical assistance in order to establish high-quality programs.

The bill would prohibit teachers from providing concurrent instruction to in-person and virtual students and would require that teachers be provided professional development on high-quality virtual instruction.

The bill would establish a funding process for students enrolled in virtual courses as well as full-time virtual and hybrid campuses based on student enrollment.

The bill would repeal TEC Chapter 30A and replace it with TEC Chapter 30B in Subtitle F, Title 2 which would outline virtual courses, full-time hybrid, and virtual campuses, and how students would qualify to attend.

In addition, under the provisions of the bill, a student enrolled in a virtual course offered under the new chapter would be counted towards the district's or school's average daily attendance in the same manner as district or school students not enrolled in virtual courses.

Finally, the bill would repeal the local remote learning program that was established under Senate Bill 15, Eighty-seventh Legislature, 2nd Called Session.

### **Methodology**

The agency assumes there would be some administrative and technology cost associated with Section 1.02 of the bill, which would amend statute to change "electronic" to "virtual" and update language related to parental requests and notifications.

Section 1.03 would add new TEC Chapter 30B, Virtual Courses and Full-Time Hybrid and Virtual Campuses. There would be a fiscal impact to the state to implement the approval of full-time online/hybrid programs. The agency assumes that the Division of Authorizing would need one Director I and two Education Specialist Vs to establish the review process, review school plans, and review performance each year.

There would also be a fiscal impact to the state to design and host the required professional development courses on high quality virtual education. There would be an initial cost to develop and provide these courses either through a contract or grant. The agency assumes a cost of \$500,000 for the design and production.

The agency assumes there would also be a fiscal impact to the state to provide grants and technical assistance. The agency estimates \$5.0 million each fiscal year to support Local Education Agencies (LEAs) who are interested in designing full-time virtual/hybrid schools.

There would be a cost to the Foundation School Program (FSP) under this bill. The agency assumes that 471 students who would be previously ineligible for funding under SB 15, 87R, would be eligible for funding under this bill. The agency assumes an attendance rate of 92.38 percent and an average cost per student in average daily attendance of \$8,321. The agency estimates that the cost to the FSP of funding these students under the bill would be \$3.6 million in each fiscal year.

The agency assumes that students currently funded on a completion basis under the Texas Virtual School Network (TXVSN) would be funded on a per student in average daily attendance basis. The agency assumes that 35,564 students in average daily attendance were enrolled in TXVSN in the 2021-22 school year. Of these, 34,055 were funded on a completion basis. Therefore, the agency assumes that 1,509 students in average daily attendance would now be funded under the bill. Assuming a cost of \$8,321 per student in average daily attendance, the agency estimates that the cost to the FSP would be \$12.4 million in each fiscal year.

The agency assumes that the total cost to the FSP for this section would be \$16.0 million in each fiscal year. The cost to the FSP includes estimated decreases in Recapture Payments - Attendance Credits of \$1.6 million in each fiscal year. The decrease in recapture is reflected as a savings in the table above because recapture is appropriated as a method of finance for the FSP in the General Appropriations Act.

Section 2.01 would require the Commissioner to adjust ADA in the event of an emergency or crisis, as defined

by Commissioner rule, that causes statewide or regional ADA decreases and modify or waive requirements to ensure adequate funding levels. The agency assumes this section would have a fiscal impact, but the cost cannot be determined.

## **Technology**

The cost estimate to develop and implement the requirements in a new application would be \$898,444 in fiscal year 2024 and \$2,695,332 in fiscal year 2025 for initial development effort for a total cost of \$3,593,777.

There would also be Capital Data Center Service costs as TEA would be mandated to participate in the DCS program. Those costs would include a onetime hardware/software cost of \$22,032 and an annual ongoing cost of \$111,756. In fiscal year 2024 DCS costs would be \$117,264 and in FY 25 DCS costs would be \$128,280 split 25%/75%. Additionally, three FTEs would be needed to provide ongoing support and maintenance: two Programmer Vs and one System Analyst V for a cost of \$513,753 in fiscal year 2024 and \$523,459 in fiscal years 2025-28.

The cost estimate to develop and implement the requirements in the Texas Student Data System (TSDS) would be \$340,454 in fiscal year 2024 and \$1,021,362 in fiscal year 2025 for initial development effort for a total cost of \$1,361,816.

The total cost to develop and implement the requirements in the TREx application would be \$1,359 in fiscal year 2024 and \$4,076 in fiscal year 2025.

The cost estimate to develop and implement the requirements in the Foundation School Program (FSP) would be \$199,268 for fiscal years 2024-25.

## **Local Government Impact**

The bill would provide flexibility for school districts to offer virtual or hybrid programs. There may be costs associated with serving as virtual course providers, including managing course enrollments and payments.

LEAs with students enrolled in virtual courses as well as full-time virtual and hybrid campuses would need to make modifications to student information systems to align with new TSDS PEIMS reporting requirements and funding calculations.

LEAs that have implemented local remote learning programs would have to discontinue providing the option to students and develop a full-time hybrid campus or full-time virtual campus. There may be costs associated with developing one of the new options.

**Source Agencies:** 701 Texas Education Agency

**LBB Staff:** JMc, KSk, ASA, MJe