

SENATE AMENDMENTS

2nd Printing

By: Bell of Kaufman, King of Hemphill,
Buckley, Shaheen, Morales of Maverick

H.B. No. 681

A BILL TO BE ENTITLED

1 AN ACT

2 relating to virtual and off-campus electronic instruction at a
3 public school and the allotment for certain special-purpose school
4 districts under the Foundation School Program.

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

6 SECTION 1. Section 25.092(a-4), Education Code, is amended
7 to read as follows:

8 (a-4) A school district or open-enrollment charter school
9 may adopt a policy to exempt students from the requirements of this
10 section for one or more courses identified in the policy that are
11 offered under a local remote learning program under Section
12 29.9091. [~~This subsection expires September 1, 2023.~~]

13 SECTION 2. Section 29.9091(r), Education Code, is amended
14 to read as follows:

15 (r) In calculating under Subsection (q) the number of
16 students that may be enrolled in a local remote learning program, a
17 school district or open-enrollment charter school shall count
18 students who spend at least half of the student's instructional
19 time during the [~~2021-2022~~] school year [~~or 2022-2023 school year,~~
20 ~~as applicable,~~] enrolled in virtual courses or receiving remote
21 instruction, other than by enrollment in electronic courses offered
22 through the state virtual school network under Chapter 30A,
23 including students enrolled in virtual courses or who received
24 remote instruction during the [~~2021-2022~~] school year [~~or 2022-2023~~

1 ~~school year, as applicable,]~~ because the student was:

- 2 (1) medically fragile;
- 3 (2) placed in a virtual setting by an admission,
4 review, and dismissal committee; or
- 5 (3) receiving accommodations under Section 504,
6 Rehabilitation Act of 1973 (29 U.S.C. Section 794).

7 SECTION 3. Section 48.005(h-1), Education Code, is amended
8 to read as follows:

9 (h-1) Subject to rules adopted by the commissioner under
10 Section 48.007(b), time that a student participates in a course or
11 program provided under Section 48.0071(b) shall be counted as part
12 of the minimum number of instructional hours required for a student
13 to be considered a full-time student in average daily attendance
14 for purposes of this section. [~~This subsection expires September~~
15 ~~1, 2023.~~]

16 SECTION 4. The following provisions of the Education Code
17 are repealed:

- 18 (1) Section 29.9091(s);
- 19 (2) Section 39.0549(d);
- 20 (3) Section 39.301(c-2);
- 21 (4) Section 48.005(m-2);
- 22 (5) Section 48.0071(d); and
- 23 (6) Section 48.053(b-2).

24 SECTION 5. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

H.B. No. 681

1 Act takes effect August 31, 2023.

ADOPTED

MAY 23 2023

Lately Law
Secretary of the Senate

By: Bell, Keith / Bettencourt

H.B. No. 481

Substitute the following for ___B. No. ___:

By: *[Signature]*

C.S. H.B. No. 481

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

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

3 SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

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

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

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

15 (B) the instruction and content are delivered
16 primarily over the Internet.

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

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

21 (5) "Whole campus virtual instruction provider" means
22 a private or third-party service that provides oversight and
23 management of the virtual instruction services or otherwise
24 provides a preponderance of those services for a full-time virtual
25 or full-time hybrid campus.

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

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

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

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

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

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

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

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

26 SUBCHAPTER B. VIRTUAL COURSES

27 Sec. 30B.051. VIRTUAL COURSE INSTRUCTION PERMITTED. (a) A

1 school district or open-enrollment charter school may deliver
2 instruction through virtual courses in the manner provided by this
3 chapter.

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

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

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

11 (3) a regional education service center.

12 (b) A school district or open-enrollment charter school
13 that delivers instruction through a virtual course shall develop
14 written information describing each virtual course available for
15 enrollment and complying with any other requirement of Section
16 26.0031.

17 (c) A school district or open-enrollment charter school
18 shall make information under this section available to students and
19 parents at the time students ordinarily select courses and may
20 provide that information to students and parents at other times as
21 determined by the district or school.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 Sec. 30B.057. ATTENDANCE FOR CLASS CREDIT OR GRADE. A
9 school district or open-enrollment charter school shall establish
10 the participation necessary to earn credit or a grade for a virtual
11 course offered by the district or school notwithstanding Section
12 25.092.

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

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

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

24 (2) the cost of the course; and

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

27 (b) A school district or open-enrollment charter school

1 shall provide to the agency information required to publish the
2 list under Subsection (a).

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

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

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

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

19 (2) develop an academic plan that incorporates:

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

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

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

1 (D) compliance with the requirements of this
2 chapter;
3 (3) develop an operations plan that addresses:
4 (A) staffing models;
5 (B) the designation of selected school leaders;
6 (C) professional development for staff;
7 (D) student and family engagement;
8 (E) school calendars and schedules;
9 (F) student enrollment eligibility;
10 (G) cybersecurity and student data privacy
11 measures; and
12 (H) any educational services to be provided by a
13 private or third party; and
14 (4) demonstrate the capacity to execute the district's
15 or school's plan successfully.
16 (c) A full-time virtual campus or full-time hybrid campus
17 authorized under this section must include:
18 (1) at least one grade level in which an assessment
19 instrument is required to be administered under Section 39.023(a)
20 or (c), including each subject or course for which an assessment
21 instrument is required in that grade level;
22 (2) sufficient grade levels, as determined by the
23 commissioner, to allow for the annual evaluation of the performance
24 of students who complete the courses offered; or
25 (3) for a campus that does not include grade levels
26 described by Subdivision (1) or (2), another performance evaluation
27 measure approved by the commissioner during the authorization

1 process.

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

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

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

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

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

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

26 (2) a financial accountability performance rating
27 under Subchapter D, Chapter 39, indicating financial performance

1 lower than satisfactory;

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

4 (4) a rating of performance that needs improvement or
5 unacceptable, as determined by the commissioner, on a performance
6 evaluation approved by the commissioner under Section
7 30B.101(c)(3).

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

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

12 (2) require any intervention authorized under that
13 section.

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

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

26 Sec. 30B.103. REVISION RELATING TO A PRIVATE OR THIRD
27 PARTY. A school district or open-enrollment charter school shall

1 provide notice to the commissioner of the use of or change in
2 affiliation of a private or third party acting as a whole campus
3 virtual instruction provider for the full-time virtual campus or
4 full-time hybrid campus.

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

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

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

18 (b) A student is eligible to enroll in a full-time virtual
19 campus if the student:

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

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

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

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

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

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

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

13 Sec. 30B.107. CAMPUS DESIGNATIONS. The commissioner shall
14 determine and assign a unique campus designation number to each
15 full-time virtual campus or full-time hybrid campus authorized
16 under this subchapter.

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

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

7 SUBCHAPTER D. STATE SUPPORT

8 Sec. 30B.151. EDUCATOR PROFESSIONAL DEVELOPMENT. From
9 funds appropriated or otherwise available, the agency shall develop
10 professional development courses and materials aligned with
11 research-based practices for educators in providing high-quality
12 virtual education.

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

18 SECTION 1.04. Subchapter A, Chapter 37, Education Code, is
19 amended by adding Section 37.0071 to read as follows:

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

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

1 ARTICLE 2. THE FOUNDATION SCHOOL PROGRAM

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

4 (e-1) In a school year in which the occurrence of an
5 emergency or crisis, as defined by commissioner rule, causes a
6 statewide decrease in average daily attendance of school districts
7 entitled to funding under this chapter or, for an emergency or
8 crisis occurring only within a specific region of this state,
9 causes a regional decrease in the average daily attendance of
10 school districts located in the affected region, the commissioner
11 shall modify or waive requirements applicable to the affected
12 districts under this section and adopt appropriate safeguards as
13 necessary to ensure the continued support and maintenance of an
14 efficient system of public free schools and the continued delivery
15 of high-quality instruction under that system.

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

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

23 (1) who resides in this state; or

24 (2) who:

25 (A) is a dependent of a member of the United
26 States military;

27 (B) was previously enrolled in school in this

1 state; and

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

4 ARTICLE 3. CONFORMING CHANGES

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

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

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

18 (f) In consultation with interested school districts,
19 open-enrollment charter schools, and other appropriate interested
20 persons, the commissioner shall adopt rules applicable to the
21 consortium, according to the following principles for a next
22 generation of higher performing public schools:

23 (1) engagement of students in digital learning,
24 including engagement through the use of electronic textbooks and
25 instructional materials adopted under Subchapters B and B-1,
26 Chapter 31, and virtual courses offered by school districts and
27 open-enrollment charter schools under Chapter 30B [~~through the~~

1 ~~state virtual school network under Subchapter 30A];~~

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

5 (3) use of multiple assessments of learning capable of
6 being used to inform students, parents, districts, and charter
7 schools on an ongoing basis concerning the extent to which learning
8 is occurring and the actions consortium participants are taking to
9 improve learning; and

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

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

15 (b) In recognition of the challenges faced by students who
16 are homeless or in substitute care, the agency shall assist the
17 transition of students who are homeless or in substitute care from
18 one school to another by:

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

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

26 (3) developing procedures for awarding credit,
27 including partial credit if appropriate, for course work, including

1 electives, completed by a student who is homeless or in substitute
2 care while enrolled at another school;

3 (4) developing procedures to ensure that a new school
4 relies on decisions made by the previous school regarding placement
5 in courses or educational programs of a student who is homeless or
6 in substitute care and places the student in comparable courses or
7 educational programs at the new school, if those courses or
8 programs are available;

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

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

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

21 (8) encouraging school districts and open-enrollment
22 charter schools to provide services for a student who is homeless or
23 in substitute care in transition when applying for admission to
24 postsecondary study and when seeking sources of funding for
25 postsecondary study;

26 (9) requiring school districts, campuses, and
27 open-enrollment charter schools to accept a referral for special

1 education services made for a student who is homeless or in
2 substitute care by a school previously attended by the student, and
3 to provide comparable services to the student during the referral
4 process or until the new school develops an individualized
5 education program for the student;

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

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

13 (B) admission, review, and dismissal committee
14 meetings;

15 (C) manifestation determination reviews required
16 by Section 37.004(b);

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

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

21 (F) reports of restraint and seclusion required
22 by Section 37.0021;

23 (G) use of corporal punishment as provided by
24 Section 37.0011; and

25 (H) appointment of a surrogate parent for the
26 child under Section 29.0151;

27 (11) developing procedures for allowing a student who

1 is homeless or in substitute care who was previously enrolled in a
2 course required for graduation the opportunity, to the extent
3 practicable, to complete the course, at no cost to the student,
4 before the beginning of the next school year;

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

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

15 (14) designating at least one agency employee to act
16 as a liaison officer regarding educational issues related to
17 students in the conservatorship of the Department of Family and
18 Protective Services; and

19 (15) providing other assistance as identified by the
20 agency.

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

23 (d) An academy developed under this section must provide
24 counselors and other postsecondary advisors with knowledge and
25 skills to provide counseling to students regarding postsecondary
26 success and productive career planning and must include information
27 relating to:

1 (1) each endorsement described by Section
2 28.025(c-1), including:

3 (A) the course requirements for each
4 endorsement; and

5 (B) the postsecondary educational and career
6 opportunities associated with each endorsement;

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

11 (3) general academic performance requirements for
12 admission to an institution of higher education, including the
13 requirements for automatic admission to a general academic teaching
14 institution under Section 51.803;

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

18 (5) effective strategies for engaging students and
19 parents in planning for postsecondary education and potential
20 careers, including participation in mentorships and business
21 partnerships.

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

24 (f) A student receiving a full-time virtual education
25 provided through a full-time virtual campus under Chapter 30B
26 [~~through the state virtual school network~~] may be included in
27 determining the number of students who are educationally

1 disadvantaged and reside in an economically disadvantaged census
2 block group under Subsection (b) or (e), as applicable, if the
3 school district submits to the commissioner a plan detailing the
4 enhanced services that will be provided to the student and the
5 commissioner approves the plan.

6 SECTION 3.06. Section 48.111(b), Education Code, is amended
7 to read as follows:

8 (b) For purposes of Subsection (a), in determining the
9 number of students enrolled in a school district, the commissioner
10 shall exclude students enrolled in the district who receive
11 full-time instruction provided through a full-time virtual campus
12 under Chapter 30B [~~through the state virtual school network under~~
13 ~~Chapter 30A~~].

14 ARTICLE 4. REPEALER; TRANSITION; EFFECTIVE DATE

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

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

27 SECTION 4.02. (a) Notwithstanding the repeal by this Act of

1 Chapter 30A, Education Code, a school district or open-enrollment
2 charter school providing an electronic course or a full-time
3 program through the state virtual school network in accordance with
4 Chapter 30A, Education Code, as that law existed immediately before
5 the effective date of this Act, may, except as provided by
6 Subsection (b) of this section, continue to provide that course or
7 full-time program as if that chapter were still in effect until the
8 end of the 2024-2025 school year.

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

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

25 (b) A local remote learning program operated by a school
26 district in accordance with Section 29.9091, Education Code, as
27 that section existed immediately before the effective date of this

1 Act, must operate in compliance with Section 30B.105, Education
2 Code, as added by this Act, and may not operate in compliance with
3 Section 29.9091(d) or (e) or Section 48.005(m-1), Education Code,
4 as those sections existed immediately before the effective date of
5 this Act.

6 (c) The funding provided to a school district or
7 open-enrollment charter school for a student enrolled in a local
8 remote learning program operated in accordance with Section
9 29.9091, Education Code, as that law existed immediately before the
10 effective date of this Act, shall be determined under Section
11 30B.108, Education Code, as added by this Act.

12 SECTION 4.04. (a) Notwithstanding the repeal by this Act of
13 Section 48.0071, Education Code, a school district or
14 open-enrollment charter school providing an off-campus electronic
15 course, off-campus electronic program, or instructional program
16 that combines in-person instruction and off-campus electronic
17 instruction in accordance with Section 48.0071, Education Code, as
18 that law existed immediately before the effective date of this Act,
19 may, except as provided by Subsections (b) and (c) of this section,
20 continue to provide the off-campus electronic course, off-campus
21 electronic program, or instructional program that combines
22 in-person instruction and off-campus electronic instruction as if
23 that section were still in effect until the end of the 2024-2025
24 school year.

25 (b) An off-campus electronic course, off-campus electronic
26 program, or instructional program that combines in-person
27 instruction and off-campus electronic instruction provided by a

1 school district in accordance with Section 48.0071, Education Code,
2 as that section existed immediately before the effective date of
3 this Act, must operate in compliance with Section 30B.105,
4 Education Code, as added by this Act, and may not operate in
5 compliance with Section 48.005(m-1), Education Code, as that
6 section existed immediately before the effective date of this Act.

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

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

21 (1) operates an electronic course or full-time program
22 through the state virtual school network in accordance with Chapter
23 30A, Education Code, as that law existed immediately before the
24 effective date of this Act;

25 (2) operates a local remote learning program under
26 Section 29.9091, Education Code, as that law existed immediately
27 before the effective date of this Act; or

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

4 SECTION 4.06. (a) Notwithstanding any other section of
5 this Act, in a state fiscal year, the Texas Education Agency is not
6 required to implement a provision found in another section of this
7 Act that is drafted as a mandatory provision imposing a duty on the
8 agency to take an action unless money is specifically appropriated
9 to the agency for that fiscal year to carry out that duty. The Texas
10 Education Agency may implement the provision in that fiscal year to
11 the extent other funding is available to the agency to do so.

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

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

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

ADOPTED

✓✓
MAY 23 2023

FLOOR AMENDMENT NO. 1

Lately Spaw
Secretary of the Senate

BY:

Paul Bellercont

1 Amend C.S.H.B. 681 (senate committee report) in SECTION 1.03
2 of the bill as follows:

3 (1) In added Section 30B.053(b), Education Code (page 3, line
4 69), strike "A" and substitute "Subject to Subsection (b-1), a".

5 (2) In added Section 30B.053, Education Code (page 4, between
6 lines 5 and 6), insert the following:

7 (b-1) A student enrolled in a virtual course offered under
8 this chapter may only participate in an activity sponsored by the
9 University Interscholastic League for the school in the school
10 district or an open-enrollment charter school that the student
11 would be eligible to attend based on the student's residential
12 address.

ADOPTED

VV
MAY 23 2023

Lacey Law
Secretary of the Senate

FLOOR AMENDMENT NO. 2

BY:

Paul Bellerose

1 Amend C.S.H.B. No. 681 (senate committee printing) by adding
2 the following appropriately numbered SECTION to ARTICLE 2 of the
3 bill and renumbering subsequent SECTIONS of the ARTICLE
4 accordingly:

5 SECTION 2.____. Section 48.101(a), Education Code, is amended
6 to read as follows:

7 (a) Small and mid-sized districts are entitled to an annual
8 allotment in accordance with this section. In this section:

9 (1) "AA" is the district's annual allotment per student
10 in average daily attendance;

11 (2) "ADA" is the number of students in average daily
12 attendance for which the district is entitled to an allotment under
13 Section 48.051, excluding those students whose inclusion in the
14 average daily attendance of the district is based on the student's
15 participation in a virtual course or a full-time virtual or full-
16 time hybrid campus under Chapter 30B; and

17 (3) "BA" is the basic allotment determined under
18 Section 48.051.

ADOPTED

MAY 23 2023

FLOOR AMENDMENT NO. 3

Latey Spaw
Secretary of the Senate

BY: *Paul Bellercont*

1 Amend C.S.H.B. 681 (senate committee report) as follows:

2 (1) In SECTION 4.03(a) of the bill, providing transition
3 language on page 11, lines 10 between "Act," and "may," insert
4 "during the 2022-2023 school year,"

5 (2) In SECTION 4.03(a) of the bill, providing transition
6 language on page 11, lines 12 and 13 strike "end of the 2024-2025
7 school year" and insert "local remote program fails to receive a
8 rating of C or higher under subsection (d)"

9 (3) In SECTION 4.03 of the bill, providing transition
10 language, on page 11, between lines 27 and 28 insert "(d) Section
11 39.0549, as that law existed immediately before the effective date
12 of this Act, is continued for purposes of determining eligibility
13 under subsection (a) except that no provision of that section may
14 be construed to prevent the assigning of a rating that removes
15 eligibility of a district to provide a local remote program under
16 subsection (a)."

17

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 24, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB681 by Bell, Keith (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 Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB681, As Passed 2nd House : a negative impact of (\$49,764,967) 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>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2024	(\$23,817,420)
2025	(\$25,947,547)
2026	(\$22,021,606)
2027	(\$22,021,606)
2028	(\$22,021,606)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from General Revenue Fund 1	Probable Savings/(Cost) from Foundation School Fund 193	Probable Savings/(Cost) from Recapture Payments Atten Crdts 8905	Change in Number of State Employees from FY 2023
2024	(\$7,816,420)	(\$16,001,000)	\$1,600,000	6.0
2025	(\$9,946,547)	(\$16,001,000)	\$1,600,000	6.0
2026	(\$6,020,606)	(\$16,001,000)	\$1,600,000	6.0
2027	(\$6,020,606)	(\$16,001,000)	\$1,600,000	6.0
2028	(\$6,020,606)	(\$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 require a school district to consider the feasibility of enrolling a student in a full-time virtual education program as an alternative to expulsion.

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 except in the calculation of the Small and Mid-Sized Allotment under amended TEC 48.101(a)(2).

The bill would amend Sections 48.104, Compensatory Education Allotment, and 48.111, Fast Growth Allotment, to replace the reference to the state virtual school network to a full-time virtual campus under new Chapter 30B.

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 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 agency assumes that the cost 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.

The agency assumes there would 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. Additionally, the agency assumes that three FTEs would be required to provide ongoing support and maintenance: two Programmer Vs and one System Analyst V.

The agency assumes that the cost to develop and implement the requirements in the Texas Student Data System (TSDS) would be \$353,361 in fiscal year 2024 and \$1,060,083 in fiscal year 2025.

The agency assumes that the cost to develop and implement the requirements in the TREx application would be \$1,517 in fiscal year 2024 and \$4,551 in fiscal year 2025.

The agency assumes that the cost to develop and implement the requirements in the Foundation School Program (FSP) would be \$49,817 in fiscal year 2024 and \$149,451 in fiscal year 2025.

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. Additionally, LEAs would need to determine if it is feasible to move a student into a full-time virtual setting as an alternative to expulsion under this bill, which may incur additional costs for the LEA.

Source Agencies: 701 Texas Education Agency

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 21, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB681 by Bell, Keith (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.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB681, Committee Report 2nd House, Substituted : a negative impact of (\$49,764,967) 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>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
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2027	(\$22,021,606)
2028	(\$22,021,606)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from General Revenue Fund 1	Probable Savings/(Cost) from Foundation School Fund 193	Probable Savings/(Cost) from Recapture Payments Atten Crdts 8905	Change in Number of State Employees from FY 2023
2024	(\$7,816,420)	(\$16,001,000)	\$1,600,000	6.0
2025	(\$9,946,547)	(\$16,001,000)	\$1,600,000	6.0
2026	(\$6,020,606)	(\$16,001,000)	\$1,600,000	6.0
2027	(\$6,020,606)	(\$16,001,000)	\$1,600,000	6.0
2028	(\$6,020,606)	(\$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 require a school district to consider the feasibility of enrolling a student in a full-time virtual education program as an alternative to expulsion.

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.

The bill would amend Sections 48.104, Compensatory Education Allotment, and 48.111, Fast Growth Allotment, to replace the reference to the state virtual school network to a full-time virtual campus under new Chapter 30B.

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 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 agency assumes that the cost 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.

The agency assumes there would 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. Additionally, the agency assumes that three FTEs would be required to provide ongoing support and maintenance: two Programmer Vs and one System Analyst V.

The agency assumes that the cost to develop and implement the requirements in the Texas Student Data System (TSDS) would be \$353,361 in fiscal year 2024 and \$1,060,083 in fiscal year 2025.

The agency assumes that the cost to develop and implement the requirements in the TREx application would be \$1,517 in fiscal year 2024 and \$4,551 in fiscal year 2025.

The agency assumes that the cost to develop and implement the requirements in the Foundation School Program (FSP) would be \$49,817 in fiscal year 2024 and \$149,451 in fiscal year 2025.

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. Additionally, LEAs would need to determine if it is feasible to move a student into a full-time virtual setting as an alternative to expulsion under this bill, which may incur additional costs for the LEA.

Source Agencies: 701 Texas Education Agency

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 17, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB681 by Bell, Keith (Relating to virtual and off-campus electronic instruction at a public school and the allotment for certain special-purpose school districts under the Foundation School Program.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 701 Texas Education Agency

LBB Staff: JMc, KSk, ASA, MJe

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 28, 2023

TO: Honorable Brad Buckley, Chair, House Committee on Public Education

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB681 by Bell, Keith (Relating to virtual and off-campus electronic instruction at a public school, the satisfaction of teacher certification requirements through an internship teaching certain virtual courses, and the allotment for certain special-purpose school districts under the Foundation School Program.), **As Introduced**

No significant fiscal implication to the State is anticipated.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 701 Texas Education Agency

LBB Staff: JMc, KSk, ASA, MJe