

By: Huberty

H.B. No. 3261

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the electronic administration of certain required
3 assessment instruments, measures to support Internet connectivity
4 for purposes of those assessment instruments, the adoption and
5 administration of certain optional interim assessment instruments,
6 and the review and use of the instructional materials and
7 technology allotment.

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

9 SECTION 1. Section [31.0211](#), Education Code, is amended by
10 amending Subsections (c) and (d) and adding Subsection (d-1) to
11 read as follows:

12 (c) Subject to Subsection (d), funds allotted under this
13 section may be used to:

14 (1) purchase:

15 (A) materials on the list adopted by the
16 commissioner, as provided by Section [31.0231](#);

17 (B) instructional materials, regardless of
18 whether the instructional materials are on the list adopted under
19 Section [31.024](#);

20 (C) consumable instructional materials,
21 including workbooks;

22 (D) instructional materials for use in bilingual
23 education classes, as provided by Section [31.029](#);

24 (E) instructional materials for use in college

1 preparatory courses under Section 28.014, as provided by Section
2 31.031;

3 (F) supplemental instructional materials, as
4 provided by Section 31.035;

5 (G) state-developed open education resource
6 instructional materials, as provided by Subchapter B-1;

7 (H) instructional materials and technological
8 equipment under any continuing contracts of the district in effect
9 on September 1, 2011;

10 (I) technological equipment necessary to support
11 the use of materials included on the list adopted by the
12 commissioner under Section 31.0231 or any instructional materials
13 purchased with an allotment under this section; ~~and~~

14 (J) inventory software or systems for storing,
15 managing, and accessing instructional materials and analyzing the
16 usage and effectiveness of the instructional materials; and

17 (K) services, equipment, and technology
18 infrastructure necessary to ensure Internet connectivity and
19 adequate bandwidth; and

20 (2) pay:

21 (A) for training educational personnel directly
22 involved in student learning in the appropriate use of
23 instructional materials and for providing for access to
24 technological equipment for instructional use; ~~and~~

25 (B) for training personnel in the electronic
26 administration of assessment instruments; and

27 (C) the salary and other expenses of an employee

1 who provides technical support for the use of technological
2 equipment directly involved in student learning.

3 (d) Each biennium the commissioner shall assess the
4 technology needs for all school districts and provide an estimate
5 of the cost for these resources to the State Board of Education [~~a~~
6 ~~school district shall use the district's allotment under this~~
7 ~~section to purchase, in the following order:~~

8 [~~(1) instructional materials necessary to permit the~~
9 ~~district to certify that the district has instructional materials~~
10 ~~that cover all elements of the essential knowledge and skills of the~~
11 ~~required curriculum, other than physical education, for each grade~~
12 ~~level as required by Section 28.002; and~~

13 [~~(2) any other instructional materials or~~
14 ~~technological equipment as determined by the district].~~

15 (d-1) In purchasing technological equipment, a school
16 district shall:

17 (1) secure technological solutions that meet the
18 varying and unique needs of students and teachers in the district;
19 and

20 (2) consider:

21 (A) the long-term cost of ownership; and

22 (B) flexibility for innovation.

23 SECTION 2. Section 31.022, Education Code, is amended by
24 amending Subsection (g) and adding Subsection (i) to read as
25 follows:

26 (g) In determining the disbursement of money to the
27 available school fund and the amount of that disbursement that will

1 be used, in accordance with Section 43.001(d), to fund the
2 instructional materials and technology allotment under Section
3 31.0211, the board must consider the cost of all district
4 technology requirements, as reported by the commissioner, and
5 instructional materials for that state fiscal biennium. [~~In~~
6 ~~reviewing and adopting instructional materials, the board shall~~
7 ~~consider a school district's need for technology as well as~~
8 ~~instructional materials and in any biennium may limit the adoption~~
9 ~~of instructional materials to provide sufficient resources to~~
10 ~~purchase technology resources, including digital curriculum.]~~

11 (i) For any state fiscal biennium, the board may only issue
12 proclamations for instructional materials in which the total
13 projected cost of instructional materials under the proclamations
14 does not exceed 75 percent of the total amount used to fund the
15 instructional materials and technology allotment under Section
16 31.0211 for that biennium.

17 SECTION 3. Subchapter B, Chapter 32, Education Code, is
18 amended by adding Section 32.037 to read as follows:

19 Sec. 32.037. GRANT PROGRAM FOR TRANSITION TO ELECTRONIC
20 ADMINISTRATION OF ASSESSMENT INSTRUMENTS. (a) The commissioner
21 may establish a matching grant program to ensure that all school
22 districts and open-enrollment charter schools have the necessary
23 infrastructure to administer assessment instruments electronically
24 in accordance with the transition plan developed under Section
25 39.02341.

26 (b) In establishing the grant program, the commissioner
27 may:

1 (1) set eligibility criteria to receive a matching
2 grant under the program; and

3 (2) contract with developers of technology as
4 necessary to ensure the most efficient and cost-effective
5 implementation of Internet connectivity infrastructure for
6 electronic administration of assessment instruments.

7 (c) This section expires September 1, 2025.

8 SECTION 4. Sections 39.023(c-3), (c-8), and (o), Education
9 Code, are amended to read as follows:

10 (c-3) Except as provided by Subsection (c-7) or as otherwise
11 provided by this subsection, in adopting a schedule for the
12 administration of assessment instruments under this section, the
13 State Board of Education shall ensure that assessment instruments
14 administered under Subsection (a) or (c) are not administered on
15 the first instructional day of a week. On request by a school
16 district or open-enrollment charter school, the commissioner may
17 allow the district or school to administer an assessment instrument
18 required under Subsection (a) or (c) on the first instructional day
19 of a week if administering the assessment instrument on another
20 instructional day would result in a significant administrative
21 burden due to specific local conditions.

22 (c-8) Beginning with the 2022-2023 school year, not more
23 than 75 percent of the available points on an assessment instrument
24 developed under Subsection (a) or (c) may be attributable to [~~not~~
25 ~~present more than 75 percent of the~~] questions presented in a
26 multiple choice format.

27 (o) The agency shall adopt or develop optional interim

1 assessment instruments for each subject or course for each grade
2 level subject to assessment under this section. A school district
3 or open-enrollment charter school may not be required to administer
4 interim assessment instruments adopted or developed under this
5 subsection. An interim assessment instrument:

6 (1) must be:

7 (A) when possible, predictive of the assessment
8 instrument for the applicable subject or course for that grade
9 level required under this section; and

10 (B) administered electronically; and

11 (2) may not be used for accountability purposes.

12 SECTION 5. Section [39.0234](#), Education Code, is amended to
13 read as follows:

14 Sec. 39.0234. ELECTRONIC ADMINISTRATION OF ASSESSMENT
15 INSTRUMENTS. (a) Each [~~The agency shall ensure that~~] assessment
16 instrument [~~instruments~~] required under Section [39.023](#)(a), (c), or
17 (1) must be [~~39.023 are capable of being~~] administered
18 electronically, unless otherwise provided by commissioner rule.

19 (b) The agency may recommend, but may not require, that a
20 school district make external keyboards available for student use
21 with tablet devices for the electronic administration of an
22 assessment instrument, including any portion of an assessment
23 instrument that contains constructed response or essay items.

24 SECTION 6. Sections [39.02341](#)(a) and (b), Education Code,
25 are amended to read as follows:

26 (a) The agency, in consultation with the State Board of
27 Education, shall develop a transition plan to administer all

1 assessment instruments required under Sections 39.023(a), (c), and
2 (1) [Section 39.023] electronically beginning not later than the
3 2022-2023 school year. The plan must:

4 (1) evaluate the availability of Internet access for
5 each school district in this state;

6 (2) identify changes to state law or policy necessary
7 to improve the availability of Internet access described by
8 Subdivision (1);

9 (3) evaluate the state's experience with administering
10 online assessment instruments, including the occurrence or effects
11 of power outages or other types of disruptions of Internet service,
12 and actions taken by the state to mitigate the occurrence and effect
13 of those disruptions; and

14 (4) identify and evaluate actions taken by the state
15 to improve the administration of online assessment instruments.

16 (b) The agency shall implement the transition plan
17 beginning on September 1, 2021. [~~In order to ensure legislative~~
18 ~~approval of the transition plan, this subsection expires August 31,~~
19 ~~2021.~~]

20 SECTION 7. (a) Except as provided by Subsection (b) of this
21 section, this Act applies beginning with the 2021-2022 school year.

22 (b) Section 39.0234, Education Code, as amended by this Act,
23 applies beginning with the 2023-2024 school year.

24 SECTION 8. 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

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1 Act takes effect September 1, 2021.