

SENATE AMENDMENTS

2nd Printing

By: Howard

H.B. No. 3526

A BILL TO BE ENTITLED

1 AN ACT

2 relating to renaming the instructional materials allotment as the
3 technology and instructional materials allotment and making
4 associated technical changes.

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

6 SECTION 1. Section 31.001, Education Code, is amended to
7 read as follows:

8 Sec. 31.001. FREE INSTRUCTIONAL MATERIALS. Instructional
9 materials selected for use in the public schools shall be furnished
10 without cost to the students attending those schools. Except as
11 provided by Section 31.104(d), a school district may not charge a
12 student for instructional material or technological equipment
13 purchased by the district with the district's technology and
14 instructional materials allotment.

15 SECTION 2. Section 31.005, Education Code, is amended to
16 read as follows:

17 Sec. 31.005. FUNDING FOR OPEN-ENROLLMENT CHARTER SCHOOLS.
18 An open-enrollment charter school is entitled to the technology and
19 instructional materials allotment under this chapter and is subject
20 to this chapter as if the school were a school district.

21 SECTION 3. Section 31.021, Education Code, is amended to
22 read as follows:

23 Sec. 31.021. STATE TECHNOLOGY AND INSTRUCTIONAL MATERIALS
24 FUND. (a) The state technology and instructional materials fund

1 consists of:

2 (1) an amount set aside by the State Board of Education
3 from the available school fund, in accordance with Section
4 43.001(d); and

5 (2) all amounts lawfully paid into the fund from any
6 other source.

7 (c) Money in the state technology and instructional
8 materials fund shall be used to:

9 (1) fund the technology and instructional materials
10 allotment, as provided by Section 31.0211;

11 (2) purchase special instructional materials for the
12 education of blind and visually impaired students in public
13 schools;

14 (3) pay the expenses associated with the instructional
15 materials adoption and review process under this chapter;

16 (4) pay the expenses associated with the purchase or
17 licensing of open-source instructional material;

18 (5) pay the expenses associated with the purchase of
19 instructional material, including intrastate freight and shipping
20 and the insurance expenses associated with intrastate freight and
21 shipping;

22 (6) fund the technology lending grant program
23 established under Section 32.201; and

24 (7) provide funding to the Texas School for the Blind
25 and Visually Impaired, the Texas School for the Deaf, and the Texas
26 Juvenile Justice Department.

27 (d) Money transferred to the state technology and

1 instructional materials fund remains in the fund until spent and
2 does not lapse to the state at the end of the fiscal year.

3 SECTION 4. The heading to Section 31.0211, Education Code,
4 is amended to read as follows:

5 Sec. 31.0211. TECHNOLOGY AND INSTRUCTIONAL MATERIALS
6 ALLOTMENT.

7 SECTION 5. Sections 31.0211(a) and (b), Education Code, are
8 amended to read as follows:

9 (a) A school district is entitled to an allotment each
10 biennium from the state technology and instructional materials fund
11 for each student enrolled in the district on a date during the last
12 year of the preceding biennium specified by the commissioner. The
13 commissioner shall determine the amount of the allotment per
14 student each biennium on the basis of the amount of money available
15 in the state technology and instructional materials fund to fund
16 the allotment. An allotment under this section shall be
17 transferred from the state technology and instructional materials
18 fund to the credit of the district's technology and instructional
19 materials account as provided by Section 31.0212.

20 (b) A juvenile justice alternative education program under
21 Section 37.011 is entitled to an allotment from the state
22 technology and instructional materials fund in an amount determined
23 by the commissioner. The program shall use the allotment to
24 purchase items listed in Subsection (c) for students enrolled in
25 the program. The commissioner's determination under this
26 subsection is final and may not be appealed.

27 SECTION 6. The heading to Section 31.0212, Education Code,

1 is amended to read as follows:

2 Sec. 31.0212. TECHNOLOGY AND INSTRUCTIONAL MATERIALS
3 ACCOUNT.

4 SECTION 7. Sections 31.0212(a), (b), (d), and (e),
5 Education Code, are amended to read as follows:

6 (a) The commissioner shall maintain a technology and [~~an~~]
7 instructional materials account for each school district. In the
8 first year of each biennium, the commissioner shall deposit in the
9 account for each district the amount of the district's technology
10 and instructional materials allotment under Section 31.0211.

11 (b) The commissioner shall pay the cost of instructional
12 materials requisitioned by a school district under Section 31.103
13 using funds from the district's technology and instructional
14 materials account.

15 (d) Money deposited in a school district's technology and
16 instructional materials account during each state fiscal biennium
17 remains in the account and available for use by the district for the
18 entire biennium. At the end of each biennium, a district with
19 unused money in the district's account may carry forward any
20 remaining balance to the next biennium.

21 (e) The commissioner shall adopt rules as necessary to
22 implement this section. The rules must include a requirement that
23 a school district provide the title and publication information for
24 any instructional materials requisitioned or purchased by the
25 district with the district's technology and instructional
26 materials allotment.

27 SECTION 8. Section 31.0213, Education Code, is amended to

1 read as follows:

2 Sec. 31.0213. CERTIFICATION OF USE OF TECHNOLOGY AND
3 INSTRUCTIONAL MATERIALS ALLOTMENT. Each school district shall
4 annually certify to the commissioner that the district's technology
5 and instructional materials allotment has been used only for
6 expenses allowed by Section 31.0211.

7 SECTION 9. Section 31.0214(a), Education Code, is amended
8 to read as follows:

9 (a) Each year the commissioner shall adjust the technology
10 and instructional materials allotment of school districts
11 experiencing high enrollment growth. The commissioner shall
12 establish a procedure for determining high enrollment growth
13 districts eligible to receive an adjustment under this section and
14 the amount of the technology and instructional materials allotment
15 those districts will receive.

16 SECTION 10. The heading to Section 31.0215, Education Code,
17 is amended to read as follows:

18 Sec. 31.0215. TECHNOLOGY AND INSTRUCTIONAL MATERIALS
19 [~~MATERIAL~~] ALLOTMENT PURCHASES.

20 SECTION 11. Sections 31.0215(b) and (c), Education Code,
21 are amended to read as follows:

22 (b) The commissioner may allow a school district or
23 open-enrollment charter school to place an order for instructional
24 materials before the beginning of a fiscal biennium and to receive
25 instructional materials before payment. The commissioner shall
26 limit the cost of an order placed under this section to 80 percent
27 of the estimated amount to which a school district or

1 open-enrollment charter school is estimated to be entitled as
2 provided by Subsection (a) and shall first credit any balance in a
3 district or charter school technology and instructional materials
4 account to pay for an order placed under this section.

5 (c) The commissioner shall make payments for orders placed
6 under this section as funds become available to the technology and
7 instructional materials fund and shall prioritize payment of orders
8 placed under this section over reimbursement of purchases made
9 directly by a school district or open-enrollment charter school.

10 SECTION 12. Section 31.0231(b), Education Code, is amended
11 to read as follows:

12 (b) A school district may select material on the list
13 adopted under Subsection (a) to be funded by the district's
14 technology and instructional materials allotment under Section
15 31.0211.

16 SECTION 13. Section 31.029(a), Education Code, is amended
17 to read as follows:

18 (a) A school district shall purchase with the district's
19 technology and instructional materials allotment or otherwise
20 acquire instructional materials for use in bilingual education
21 classes.

22 SECTION 14. Section 31.031(a), Education Code, is amended
23 to read as follows:

24 (a) A school district may purchase with the district's
25 technology and instructional materials allotment or otherwise
26 acquire instructional materials for use in college preparatory
27 courses under Section 28.014.

1 SECTION 15. Section 31.071(e), Education Code, is amended
2 to read as follows:

3 (e) The costs of administering this subchapter and
4 purchasing state-developed open-source instructional materials
5 shall be paid from the state technology and instructional materials
6 fund, as determined by the commissioner.

7 SECTION 16. Section 31.101(f), Education Code, is amended
8 to read as follows:

9 (f) The commissioner shall maintain an online requisition
10 system for school districts to requisition instructional materials
11 to be purchased with the district's technology and instructional
12 materials allotment.

13 SECTION 17. Section 31.151(d), Education Code, is amended
14 to read as follows:

15 (d) A penalty collected under this section shall be
16 deposited to the credit of the state technology and instructional
17 materials fund.

18 SECTION 18. Section 41.124(c), Education Code, is amended
19 to read as follows:

20 (c) A school district that receives tuition for a student
21 from a school district with a wealth per student that exceeds the
22 equalized wealth level may not claim attendance for that student
23 for purposes of Chapters 42 and 46 and the technology and
24 instructional materials allotment under Section 31.0211.

25 SECTION 19. Section 43.001(d), Education Code, is amended
26 to read as follows:

27 (d) Each biennium the State Board of Education shall set

1 aside an amount equal to 50 percent of the distribution for that
2 biennium from the permanent school fund to the available school
3 fund as provided by Section 5(a), Article VII, Texas Constitution,
4 to be placed, subject to the General Appropriations Act, in the
5 state technology and instructional materials fund established
6 under Section 31.021.

7 SECTION 20. Section 403.093(d), Government Code, is amended
8 to read as follows:

9 (d) The comptroller shall transfer from the general revenue
10 fund to the foundation school fund an amount of money necessary to
11 fund the foundation school program as provided by Chapter 42,
12 Education Code. The comptroller shall make the transfers in
13 installments as necessary to comply with Section 42.259, Education
14 Code, and permit the Texas Education Agency, to the extent
15 authorized by the General Appropriations Act, to make temporary
16 transfers from the foundation school fund for payment of the
17 technology and instructional materials allotment under Section
18 31.0211, Education Code. Unless an earlier date is necessary for
19 purposes of temporary transfers for payment of the technology and
20 instructional materials allotment, an installment must be made not
21 earlier than two days before the date an installment to school
22 districts is required by Section 42.259, Education Code, and must
23 not exceed the amount necessary for that payment and any temporary
24 transfers for payment of the technology and instructional materials
25 allotment.

26 SECTION 21. This Act takes effect immediately if it
27 receives a vote of two-thirds of all the members elected to each

H.B. No. 3526

1 house, as provided by Section 39, Article III, Texas Constitution.
2 If this Act does not receive the vote necessary for immediate
3 effect, this Act takes effect September 1, 2017.

ADOPTED

MAY 23 2017

FLOOR AMENDMENT NO. 1

Leta Spaw
Secretary of the Senate

BY: L. Taylor

1 Amend H.B. 3526 (senate committee printing) as follows:

2 (1) In SECTION 3 of the bill, strike amended Sections
3 31.021(c)(6) and (7), Education Code (page 2, lines 4 through
4 8), and substitute the following:

5 (6) [~~fund the technology lending grant program~~
6 ~~established under Section 32.201; and~~

7 [+7+] provide funding to the Texas School for the
8 Blind and Visually Impaired, the Texas School for the Deaf, and
9 the Texas Juvenile Justice Department; and

10 (7) pay the expenses associated with the
11 instructional materials web portal developed under Section
12 31.081.

13 (2) Add the following appropriately numbered SECTIONS to
14 the bill and renumber subsequent SECTIONS of the bill
15 accordingly:

16 SECTION __. Section 31.004(b), Education Code, is amended
17 to read as follows:

18 (b) To determine whether each student has instructional
19 materials that cover all elements of the essential knowledge and
20 skills as required by Subsection (a), a school district or open-
21 enrollment charter school may consider:

22 (1) instructional materials adopted by the State
23 Board of Education;

24 (2) materials adopted or purchased by the
25 commissioner under Section 31.0231 or Subchapter B-1;

26 (3) open-source instructional materials submitted by
27 eligible institutions and adopted by the State Board of
28 Education under Section 31.0241;

29 (4) open-source instructional materials made

1 available by other public schools; ~~and~~

2 (5) instructional materials developed or purchased by
3 the school district or open-enrollment charter school; and

4 (6) open educational resources and other electronic
5 instructional materials included in the repository under Section
6 31.083.

7 SECTION __. Chapter 31, Education Code, is amended by
8 adding Subchapter B-2 to read as follows:

9 SUBCHAPTER B-2. INSTRUCTIONAL MATERIALS WEB PORTAL

10 Sec. 31.081. INSTRUCTIONAL MATERIALS WEB PORTAL. (a) The
11 commissioner shall develop and maintain a web portal to assist
12 school districts and open-enrollment charter schools in
13 selecting instructional materials under Section 31.101.

14 (b) The web portal must include general information such
15 as price, computer system requirements, and any other relevant
16 specifications for each instructional material:

17 (1) on the instructional materials list, including
18 the list adopted under Section 31.0231; or

19 (2) submitted by a publisher for inclusion in the web
20 portal.

21 (c) The commissioner by rule shall establish the procedure
22 by which a publisher may submit instructional materials for
23 inclusion in the web portal.

24 (d) The commissioner shall use a competitive process to
25 contract for the development of the web portal.

26 (e) The commissioner shall use money in the state
27 technology and instructional materials fund to pay any expenses
28 associated with the web portal.

29 Sec. 31.082. QUALITY OF INSTRUCTIONAL MATERIALS SUBMITTED
30 BY PUBLISHER. (a) The commissioner shall contract with a
31 private entity to conduct an independent analysis of each

1 instructional material submitted by a publisher for inclusion in
2 the web portal developed under Section 31.081. The analysis
3 must:

4 (1) evaluate the quality of the material; and

5 (2) determine the extent to which the material covers
6 the essential knowledge and skills identified under Section
7 28.002 for the subject and grade level for which the material is
8 intended to be used, including an identification of:

9 (A) each of the essential knowledge and skills
10 for the subject and grade level or levels covered by the
11 material; and

12 (B) the percentage of the essential knowledge
13 and skills for the subject and grade level or levels covered by
14 the material.

15 (b) The commissioner shall include in the web portal
16 developed under Section 31.081 the results of each analysis
17 conducted under Subsection (a).

18 Sec. 31.083. INSTRUCTIONAL MATERIALS REPOSITORY. (a) In
19 this section, "open educational resource" means a teaching,
20 learning, or research resource that is in the public domain or
21 has been released under an intellectual property license that
22 permits the free use and repurposing of the resource by any
23 person. The term may include full course curricula, course
24 materials, modules, textbooks, streaming videos, tests,
25 software, and any other tools, materials, or techniques used to
26 support access to knowledge.

27 (b) The commissioner shall include in the web portal
28 developed under Section 31.081 a repository of open educational
29 resources and other electronic instructional materials that
30 school districts and open-enrollment charter schools may access
31 at no cost, including state-developed open-source instructional

1 materials purchased under Subchapter B-1.

2 (c) A publisher may submit instructional materials for
3 inclusion in the repository.

4 Sec. 31.084. RULES. The commissioner may adopt rules as
5 necessary to implement this subchapter.

6 SECTION __. Not later than September 1, 2018, the
7 commissioner of education shall develop the web portal required
8 under Subchapter B-2, Chapter 31, Education Code, as added by
9 this Act.

ADOPTED

FLOOR AMENDMENT NO. 2

MAY 23 2017

Lotay Spaw
Secretary of the Senate

BY:

L. Taylor

1
2 Amend H.B. No. 3526 (senate committee report) by adding the
3 following appropriately numbered SECTION to the bill and
4 renumbering SECTIONS of the bill accordingly:

5 SECTION __. Chapter 32, Education Code, is amended by
6 adding Subchapter G to read as follows:

7 SUBCHAPTER G. TECHNOLOGY LENDING PROGRAM GRANTS

8 Sec. 32.301. ESTABLISHMENT OF PROGRAM. (a) The
9 commissioner may establish a grant program under which grants
10 are awarded to school districts and open-enrollment charter
11 schools to implement a technology lending program to provide
12 students access to equipment necessary to access and use
13 electronic instructional materials.

14 (b) A school district or an open-enrollment charter school
15 may apply to the commissioner to participate in the grant
16 program. In awarding grants under this subchapter for each
17 school year, the commissioner shall consider:

18 (1) the availability of existing equipment to
19 students in the district or school;

20 (2) other funding available to the district or
21 school; and

22 (3) the district's or school's technology plan.

23 (c) The commissioner may determine the terms of a grant
24 awarded under this section, including limits on the grant amount
25 and approved uses of grant funds.

26 (d) The commissioner may recover funds not used in
27 accordance with the terms of a grant by withholding amounts from
28 any state funds otherwise due to the school district or open-
29 enrollment charter school.

1 Sec. 32.302. FUNDING. (a) The commissioner may use not
2 more than \$25 million from the state instructional materials
3 fund under Section 31.021 each state fiscal biennium or a
4 different amount determined by appropriation to administer a
5 grant program established under this subchapter.

6 (b) The cost of administering a grant program under this
7 subchapter must be paid from funds described by Subsection (a).

8 Sec. 32.303. USE OF GRANT FUNDS. (a) A school district
9 or open-enrollment charter school may use a grant awarded under
10 Section 32.301 or other local funds to purchase, maintain, and
11 insure equipment for a technology lending program.

12 (b) Equipment purchased by a school district or open-
13 enrollment charter school with a grant awarded under Section
14 32.301 is the property of the district or school.

15 Sec. 32.304. REVIEW OF PROGRAM. Not later than January 1,
16 2019, the commissioner shall review the grant program
17 established under this subchapter and submit a report to the
18 governor, the lieutenant governor, the speaker of the house of
19 representatives, and the presiding officers of the standing
20 committees in the senate and house primarily responsible for
21 public education. This section expires September 1, 2019.

ADOPTED

MAY 23 2017

FLOOR AMENDMENT NO. 3

L. Taylor
Secretary of the Senate

BY: L. Taylor

1 Amend H.B. No. 3526 (senate committee report) by adding the
2 following appropriately numbered SECTIONS to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION ____ . Section 42.005, Education Code, is amended by
5 adding Subsection (g-1) to read as follows:

6 (g-1) The commissioner shall adopt rules to calculate
7 average daily attendance for students participating in a blended
8 learning program in which classroom instruction is supplemented
9 with applied workforce learning opportunities, including
10 participation of students in internships, externships, and
11 apprenticeships.

12 SECTION ____ . Section 42.005(g-1), Education Code, as added
13 by this Act, applies beginning with the 2017-2018 school year.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 24, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB3526** by Howard (Relating to renaming the instructional materials allotment as the technology and instructional materials allotment and making associated technical changes.), **As Passed 2nd House**

The bill would not result in additional General Revenue costs, but rather would be a cost to be paid from existing instructional materials funding for the grant program and administrative activities. The bill would result in a decrease of instructional materials allotment funding to schools of at least \$2.5 million in the 2018-19 biennium, which decreases the biennial allotment by an estimated 32 cents per student. However, instructional materials allotment funding may be reduced to a greater extent if the grant program established by the bill is funded.

The bill would amend the Education Code to rename the instructional materials allotment as the technology and instructional materials allotment and would make the associated technical changes. The bill would require the Commissioner to develop a web portal with information about all state-adopted instructional materials and other materials submitted for review by September 1, 2018 and to maintain the portal once developed. The bill would require the Commissioner use money in the state instructional materials fund, Fund 3, to pay any expense associated with the web portal and would make the web portal an allowable expense under the state instructional materials fund. The bill would require the web portal to contain certain information for each instructional material included in the portal; require the Commissioner to use a competitive process to contract for the development of the web portal; and require the Commissioner to contract with a private entity to conduct an independent analysis of each instructional material submitted by a publisher for inclusion in the portal and would require the analysis to include certain elements.

The bill would require the Commissioner to include a repository of open education resources and other electronic instructional materials that school districts and open-enrollment charter schools may access at no cost in the web portal. The bill would allow a school district or open-enrollment charter school to consider open educational resources and other electronic instructional materials included in the repository in determining whether each student has instructional materials that cover all elements of the Texas Essential Knowledge and Skills as required by 31.004(a), Education Code.

The bill would allow the Commissioner to establish a technology lending program grant under which school districts and open-enrollment charter schools could provide students access to equipment necessary to access and use electronic instructional materials. The bill would require the Commissioner to consider certain elements when awarding grants; allow the Commissioner to

recover funds not used in accordance with the terms of a grant as specified by the bill; and specify how the grant funds could be used by grantees.

The bill would allow the Commissioner to use up to \$25 million from the state instructional materials fund under Section 31.021 each state fiscal biennium, or an amount determined by appropriation, and would require the cost of administering the grant be deducted from the total amount awarded to the grant. The bill would require the Commissioner to review the grant program and submit a report by January 1, 2019.

The bill would require the Commissioner of Education to adopt rules to calculate average daily attendance for students participating in a blended learning program in which classroom instruction is supplemented with applied workforce learning opportunities, including participation of students in internships, externships, and apprenticeships.

The bill would repeal Subsection 30A.153(a-1) of the Education Code, which limits a school district or open-enrollment charter school's Foundation School Program funding to no more than three electronic courses during a school year taken through the Virtual School Network, unless the student is enrolled in a full-time online program that was operating on January 1, 2013. The bill would repeal Subsection 26.0031(c-1) of the Education Code, which would authorize a school district or open-enrollment charter school to decline to pay the cost for a student of more than three yearlong electronic courses, or the equivalent, during any school year, through the Virtual School Network.

The bill would take effect immediately if passed within necessary voting margins, or on September 1, 2017, and would apply beginning with school year 2017-18.

The Texas Education Agency (TEA) estimates that the bill would result in total costs of \$1.85 million in fiscal year 2018 with continuing costs of \$450,000 in subsequent years. These amounts would be paid from existing instructional materials funding and would not require an additional appropriation. This analysis anticipates the bill would not result in a cost to the state since the technology lending program grant and administration of the grant would be funded through a set aside from the state instructional materials fund which is determined through appropriations, or based on a transfer from the Permanent School Fund to the Available School Fund.

Local Government Impact

TEA estimates that school districts, open-enrollment charter schools, and other educational entities that receive an instructional materials allotment (IMA), in accordance with Section 31.0211, Education Code, would experience a decrease in the amount of the IMA of approximately 32 cents per student as a result of the provisions of the bill. However, participating districts and charters may experience offsetting increases in funding for allowable purchases under the technology lending program and may experience savings as a result of selecting open education resources from the web portal in lieu of other instructional materials.

In addition, school districts could be required to pay additional fees to providers for student enrollment in more than three yearlong electronic courses, or the equivalent, during any school year, through the Virtual School Network

Source Agencies: 701 Texas Education Agency

LBB Staff: UP, AW, THo, AM

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 16, 2017

TO: Honorable Larry Taylor, Chair, Senate Committee on Education

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB3526** by Howard (Relating to renaming the instructional materials allotment as the technology and instructional materials allotment and making associated technical changes.), **As Engrossed**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 701 Texas Education Agency

LBB Staff: UP, AW, THo, AM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 28, 2017

TO: Honorable Dan Huberty, Chair, House Committee on Public Education

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB3526** by Howard (relating to renaming the instructional materials allotment as the technology and instructional materials allotment and making associated technical changes.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 701 Texas Education Agency

LBB Staff: UP, AW, THo, AM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 21, 2017

TO: Honorable Dan Huberty, Chair, House Committee on Public Education

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3526 by Howard (Relating to renaming the instructional materials allotment as the technology and instructional materials allotment and making associated technical changes.), **As Introduced**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 701 Texas Education Agency

LBB Staff: UP, THo, AM, AW