

1-1 By: Huberty (Senate Sponsor - Taylor) H.B. No. 3261  
 1-2 (In the Senate - Received from the House May 10, 2021;  
 1-3 May 14, 2021, read first time and referred to Committee on  
 1-4 Education; May 20, 2021, reported adversely, with favorable  
 1-5 Committee Substitute by the following vote: Yeas 11, Nays 0;  
 1-6 May 20, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Taylor	X			
1-9 Lucio	X			
1-10 Bettencourt	X			
1-11 Hall	X			
1-12 Hughes	X			
1-13 Menéndez	X			
1-14 Paxton	X			
1-15 Perry	X			
1-16 Powell	X			
1-17 Schwertner	X			
1-18 West	X			

1-20 COMMITTEE SUBSTITUTE FOR H.B. No. 3261 By: Taylor

1-21 A BILL TO BE ENTITLED  
 1-22 AN ACT

1-23 relating to the electronic administration of certain required  
 1-24 assessment instruments, measures to support Internet connectivity  
 1-25 for purposes of those assessment instruments, the adoption and  
 1-26 administration of certain optional interim assessment instruments,  
 1-27 the review and use of the instructional materials and technology  
 1-28 allotment, and requests for production of instructional materials.

1-29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-30 SECTION 1. Section 31.0211, Education Code, is amended by  
 1-31 amending Subsections (c) and (d) and adding Subsection (d-1) to  
 1-32 read as follows:

1-33 (c) Funds [~~Subject to Subsection (d), funds~~] allotted under  
 1-34 this section may be used to:

1-35 (1) purchase:

1-36 (A) materials on the list adopted by the  
 1-37 commissioner, as provided by Section 31.0231;

1-38 (B) instructional materials, regardless of  
 1-39 whether the instructional materials are on the list adopted under  
 1-40 Section 31.024;

1-41 (C) consumable instructional materials,  
 1-42 including workbooks;

1-43 (D) instructional materials for use in bilingual  
 1-44 education classes, as provided by Section 31.029;

1-45 (E) instructional materials for use in college  
 1-46 preparatory courses under Section 28.014, as provided by Section  
 1-47 31.031;

1-48 (F) supplemental instructional materials, as  
 1-49 provided by Section 31.035;

1-50 (G) state-developed open education resource  
 1-51 instructional materials, as provided by Subchapter B-1;

1-52 (H) instructional materials and technological  
 1-53 equipment under any continuing contracts of the district in effect  
 1-54 on September 1, 2011;

1-55 (I) technological equipment necessary to support  
 1-56 the use of materials included on the list adopted by the  
 1-57 commissioner under Section 31.0231 or any instructional materials  
 1-58 purchased with an allotment under this section; ~~and~~

1-59 (J) inventory software or systems for storing,  
 1-60 managing, and accessing instructional materials and analyzing the

2-1 usage and effectiveness of the instructional materials; and  
2-2 (K) services, equipment, and technology  
2-3 infrastructure necessary to ensure Internet connectivity and  
2-4 adequate bandwidth; and

2-5 (2) pay:  
2-6 (A) for training educational personnel directly  
2-7 involved in student learning in the appropriate use of  
2-8 instructional materials and for providing for access to  
2-9 technological equipment for instructional use; ~~and~~

2-10 (B) for training personnel in the electronic  
2-11 administration of assessment instruments; and

2-12 (C) the salary and other expenses of an employee  
2-13 who provides technical support for the use of technological  
2-14 equipment directly involved in student learning.

2-15 (d) Each biennium the commissioner shall assess the  
2-16 technology needs for all school districts and provide an estimate  
2-17 of the cost for these resources to the State Board of Education [a  
2-18 school district shall use the district's allotment under this  
2-19 section to purchase, in the following order:

2-20 ~~[(1) instructional materials necessary to permit the~~  
2-21 ~~district to certify that the district has instructional materials~~  
2-22 ~~that cover all elements of the essential knowledge and skills of the~~  
2-23 ~~required curriculum, other than physical education, for each grade~~  
2-24 ~~level as required by Section 28.002; and~~

2-25 ~~[(2) any other instructional materials or~~  
2-26 ~~technological equipment as determined by the district].~~

2-27 (d-1) In purchasing technological equipment, a school  
2-28 district shall:

2-29 (1) secure technological solutions that meet the  
2-30 varying and unique needs of students and teachers in the district;  
2-31 and

2-32 (2) consider:  
2-33 (A) the long-term cost of ownership; and  
2-34 (B) flexibility for innovation.

2-35 SECTION 2. Section 31.022, Education Code, is amended by  
2-36 amending Subsection (g) and adding Subsection (i) to read as  
2-37 follows:

2-38 (g) In determining the disbursement of money to the  
2-39 available school fund and the amount of that disbursement that will  
2-40 be used, in accordance with Section 43.001(d), to fund the  
2-41 instructional materials and technology allotment under Section  
2-42 31.0211, the board must consider the cost of all district  
2-43 technology requirements, as estimated by the commissioner under  
2-44 Section 31.0211(d), and instructional materials for that state  
2-45 fiscal biennium. [In reviewing and adopting instructional  
2-46 materials, the board shall consider a school district's need for  
2-47 technology as well as instructional materials and in any biennium  
2-48 may limit the adoption of instructional materials to provide  
2-49 sufficient resources to purchase technology resources, including  
2-50 digital curriculum.]

2-51 (i) For any state fiscal biennium, the total projected cost  
2-52 of instructional materials under requests for production issued by  
2-53 the board may not exceed 75 percent of the total amount used to fund  
2-54 the instructional materials and technology allotment under Section  
2-55 31.0211 for that biennium.

2-56 SECTION 3. Subchapter B, Chapter 32, Education Code, is  
2-57 amended by adding Section 32.037 to read as follows:

2-58 Sec. 32.037. GRANT PROGRAM FOR TRANSITION TO ELECTRONIC  
2-59 ADMINISTRATION OF ASSESSMENT INSTRUMENTS. (a) The commissioner  
2-60 may establish a matching grant program to ensure that all school  
2-61 districts and open-enrollment charter schools have the necessary  
2-62 infrastructure to administer assessment instruments electronically  
2-63 in accordance with the transition plan developed under Section  
2-64 39.02341.

2-65 (b) In establishing the grant program, the commissioner  
2-66 may:

2-67 (1) set eligibility criteria to receive a matching  
2-68 grant under the program; and

2-69 (2) contract with developers of technology as

3-1 necessary to ensure the most efficient and cost-effective  
3-2 implementation of Internet connectivity infrastructure for  
3-3 electronic administration of assessment instruments.

3-4 (c) In awarding grants under the grant program, the  
3-5 commissioner:

3-6 (1) shall prioritize applicants seeking funding for  
3-7 one-time investments in broadband network infrastructure; and

3-8 (2) if funds are available after grants are awarded to  
3-9 each eligible applicant described by Subdivision (1), may award  
3-10 grants to applicants seeking funding for annual bandwidth and  
3-11 personnel costs associated with electronic administration of  
3-12 assessment instruments.

3-13 (d) This section expires September 1, 2025.

3-14 SECTION 4. Sections 39.023(c-3), (c-8), and (o), Education  
3-15 Code, are amended to read as follows:

3-16 (c-3) Except as provided by Subsection (c-7) or as otherwise  
3-17 provided by this subsection, in adopting a schedule for the  
3-18 administration of assessment instruments under this section, the  
3-19 State Board of Education shall ensure that assessment instruments  
3-20 administered under Subsection (a) or (c) are not administered on  
3-21 the first instructional day of a week. On request by a school  
3-22 district or open-enrollment charter school, the commissioner may  
3-23 allow the district or school to administer an assessment instrument  
3-24 required under Subsection (a) or (c) on the first instructional day  
3-25 of a week if administering the assessment instrument on another  
3-26 instructional day would result in a significant administrative  
3-27 burden due to specific local conditions.

3-28 (c-8) Beginning with the 2022-2023 school year, not more  
3-29 than 75 percent of the available points on an assessment instrument  
3-30 developed under Subsection (a) or (c) may be attributable to ~~not~~  
3-31 ~~present more than 75 percent of the~~ questions presented in a  
3-32 multiple choice format.

3-33 (o) The agency shall adopt or develop optional interim  
3-34 assessment instruments for each subject or course for each grade  
3-35 level subject to assessment under this section. A school district  
3-36 or open-enrollment charter school may not be required to administer  
3-37 interim assessment instruments adopted or developed under this  
3-38 subsection. An interim assessment instrument:

3-39 (1) must be:

3-40 (A) when possible, predictive of the assessment  
3-41 instrument for the applicable subject or course for that grade  
3-42 level required under this section; and

3-43 (B) administered electronically; and

3-44 (2) may not be used for accountability purposes.

3-45 SECTION 5. Section 39.0234, Education Code, is amended to  
3-46 read as follows:

3-47 Sec. 39.0234. ELECTRONIC ADMINISTRATION OF ASSESSMENT  
3-48 INSTRUMENTS. (a) Each ~~[The agency shall ensure that]~~ assessment  
3-49 instrument ~~[instruments]~~ required under Section 39.023(a), (c), or  
3-50 (l) must be ~~[39.023 are capable of being]~~ administered  
3-51 electronically, unless otherwise provided by commissioner rule.

3-52 (b) The agency may recommend, but may not require, that a  
3-53 school district make external keyboards available for student use  
3-54 with tablet devices for the electronic administration of an  
3-55 assessment instrument, including any portion of an assessment  
3-56 instrument that contains constructed response or essay items.

3-57 SECTION 6. Sections 39.02341(a) and (b), Education Code,  
3-58 are amended to read as follows:

3-59 (a) The agency, in consultation with the State Board of  
3-60 Education, shall develop a transition plan to administer all  
3-61 assessment instruments required under Sections 39.023(a), (c), and  
3-62 (l) ~~[Section 39.023]~~ electronically beginning not later than the  
3-63 2022-2023 school year. The plan must:

3-64 (1) evaluate the availability of Internet access for  
3-65 each school district in this state;

3-66 (2) identify changes to state law or policy necessary  
3-67 to improve the availability of Internet access described by  
3-68 Subdivision (1);

3-69 (3) evaluate the state's experience with administering

4-1 online assessment instruments, including the occurrence or effects  
4-2 of power outages or other types of disruptions of Internet service,  
4-3 and actions taken by the state to mitigate the occurrence and effect  
4-4 of those disruptions; and

4-5 (4) identify and evaluate actions taken by the state  
4-6 to improve the administration of online assessment instruments.

4-7 (b) The agency shall implement the transition plan  
4-8 beginning on September 1, 2021. [~~In order to ensure legislative  
4-9 approval of the transition plan, this subsection expires August 31,  
4-10 2021.~~]

4-11 SECTION 7. (a) Except as provided by Subsection (b) of this  
4-12 section, this Act applies beginning with the 2021-2022 school year.

4-13 (b) Section 39.0234, Education Code, as amended by this Act,  
4-14 applies beginning with the 2023-2024 school year.

4-15 SECTION 8. This Act takes effect immediately if it receives  
4-16 a vote of two-thirds of all the members elected to each house, as  
4-17 provided by Section 39, Article III, Texas Constitution. If this  
4-18 Act does not receive the vote necessary for immediate effect, this  
4-19 Act takes effect September 1, 2021.

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